

THE EXISTING LAWS

OF THE

UNITED STATES

OF A

GENERAL AND PERMANENT CHARACTER,

AND RELATING TO THE

SURVEY AND DISPOSITION OF THE PUBLIC DOMAIN,

DECEMBER 1, 1880.

EMBRACING REFERENCES TO PREVIOUS LEGISLATION, AND CITATIONS
OF DECISIONS FROM THE FEDERAL AND THE STATE COURTS AND
FROM THE EXECUTIVE OFFICERS OF THE UNITED STATES.

PREPARED PURSUANT TO THE AUTHORITY OF AN ACT OF CONGRESS AND
UNDER THE DIRECTION OF THE "COMMISSION ON THE CODIFI-
CATION OF EXISTING LAWS RELATING TO THE SURVEY
AND DISPOSITION OF THE PUBLIC DOMAIN."

*With Supplement, embracing the laws of like character passed at the Third Session
of the Fort-sixth and First Session of the Forty-seventh Congresses,
and a Digest of late Decisions under the Land Laws, in con-
tinuation of the "Citation of Decisions" of the Land
Commission, prepared under the direction of the
Commissioner of the General Land Office.*

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

ORGANIZATION.

COMMITTEES AND PUBLICATIONS OF THE PUBLIC LAND COMMISSION.

ACTS OF CONGRESS OF MARCH 3, 1879, AND JUNE 16, 1880.

PRESIDENT, JAMES A. WILLIAMS, Commissioner General Land Office.
CLARENCE KING, U. S. Geologist.
ALEXANDER T. BRITTON.
JOHN W. POWELL.
THOMAS DONALDSON.
SECRETARY, CLARENCE E. DUTTON, Capt. Ordnance, U. S. A.

COMMITTEES OF THE COMMISSION.

Committee on Classification :

JAMES A. WILLIAMSON, *Chairman, ex officio.*
CLARENCE KING.
JOHN W. POWELL.

Committee on Codification :

JAMES A. WILLIAMSON, *Chairman, ex officio.*
ALEXANDER T. BRITTON.
THOMAS DONALDSON.

PUBLICATIONS OF THE COMMISSION.

Prepared and compiled by the Commission :

Preliminary report, with testimony, February 24, 1880, 1 vol.

By the Committee on Codification.

Prepared and compiled by Mr. Alexander T. Britton :

United States Land Laws, General and Permanent, 1 vol.

United States Land Laws, Local and Temporary, 2 vols.

Prepared and executed by Mr. Thomas Donaldson :

The Public Domain, its History, with Statistics, 1 vol.

FINAL REPORT OF THE PUBLIC LAND COMMISSION.

To the Senate and House of Representatives :

I have the honor to submit herewith a report of the Public Land Commission, embracing the history and a codification of the public land laws, and I desire earnestly to invite the attention of Congress to this important subject.

R. B. HAYES.

EXECUTIVE MANSION, *January 18, 1881.*

To the Senate and House of Representatives of the United States :

On the 25th of February, 1880, the Public Land Commission transmitted its preliminary report, in accordance with the act of Congress, approved March 3, 1879, making appropriation for the sundry civil expenses of the Government for the fiscal year ending June 30, 1880. Such report was restricted to recommendations of new legislation, and concluded that branch of the duty with which this commission was charged. It embodied the aggregate labor and judgment of all its members.

A subsequent act of Congress, approved June 16, 1880 (Statutes at Large, vol. 21, p. 245), contained the following clause :

For the expenses of the commission on the codification of existing laws relating to the survey and disposition of the public domain, and for the completion of such codification, the sum of fifteen thousand dollars, or so much thereof as may be necessary for that purpose, provided that said commission shall complete the same and make their final report on all the public lands in the United States on or before January first, eighteen hundred and eighty-one.

The official duties of Commissioners Clarence King and J. W. Powell in connection with the work of the geological survey necessitated their absence in the field during the summer months. They were consequently unable to give personal attention to the work of codification, and hence the execution of that duty was submitted by the commission to a committee consisting of J. A. Williamson, Thomas Donaldson, and A. T. Britton. The duties of Mr. Williamson, as Commissioner of the General Land Office, have prevented his continuous attention to the work of this committee; but he has generally aided the completion of the work with his experience, and has largely assisted its more immediate compilers with all the facilities within his personal or official command. An earnest expression of the obligations of the committee is tendered to the numerous gentlemen comprising his official staff, and to the able gentle-

men in private station who have in various ways advanced the arduous labors of the committee. It is to be regretted that their numbers are too large to permit of individual acknowledgment.

Mr. Thomas Donaldson undertook the compilation of a detailed history of the origin, organization, and progress of the public land system. The result of his work is embodied in the accompanying volume, entitled "The Public Domain—Its History, with Statistics." It contains thirty-three chapters, giving the origin, growth, and disposition of the public domain, tracing the several systems from their origin, and giving full statistics of operations under, and results of, the several acts for the sale and disposition of the public lands up to June 30, 1880. It is a compendium of information which it is hoped will be no less valuable to the public at large than useful to those officially interested in the subject.

Mr. A. T. Britton undertook the compilation of the public land laws. The scope and character of his work, as also that of Mr. Donaldson, were specifically outlined upon page 6 of the printed volume of the Report of the Commission transmitted to Congress by the President of the United States on the 25th February, 1880, and to provide the means to execute which the subsequent appropriation of June 16, 1880, was enacted. The result of his work is embodied in the one volume, herewith submitted, and entitled—

"United States Land Laws, General and Permanent," and the two volumes entitled—

"United States Land Laws, Local and Temporary."

The first book contains the existing legislation of Congress of a general and permanent nature concerning the disposition and survey of the public domain. The present laws have been compiled in an orderly manner, but without changing either their substance or text. Each general subject of legislation is collated in a separate chapter; but the sections are, for convenient reference, numbered consecutively throughout the volume. Under each section complete references are given to the antecedent legislation upon the same subject, and out of which said section has grown. Copious citations are also made under each section of all decisions construing the same in any manner, and embracing decisions by the Federal courts, the supreme courts of the several public-land States and Territories, the Department of Justice, the Secretary of the Interior, and the Commissioner of the General Land Office.

The other two volumes contain, in chronological order, in each State and Territory connected at any time with the public land system, the entire legislation of Congress of a local or temporary character, and upon which the land titles of such State or Territory have depended. A series of consecutive numbers has been prefixed to the laws through these two volumes, and, by proper notation of such numbers in foot-notes, each act is connected with all other acts upon the same subject. Where the same legislation runs equally through more than one State or Territory, it is published complete in one, and appropriate references are made in the other.

These volumes of local and temporary legislation contain also a digest of all Indian treaties affecting the titles to public lands; a list of all existing military reservations, with the authority therefor, and the boundaries thereof; and a copious citation of cases, wherein, by subject-matter, the leading decisions of the Federal and State courts and of the United States executive officers upon public land questions may be readily referred to.

The entire legislation is brought up to the 1st of December, 1880.

All of which is respectfully submitted.

J. A. WILLIAMSON.

THOMAS DONALDSON.

A. T. BRITTON.

J. W. POWELL.

CLARENCE KING.

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P R E F A C E.

This volume was prepared by the codification committee of the Public Land Commission, which was created by an act of Congress approved March 3, 1879 (Statutes at Large, Vol. 20, p. 394), and continued by an act of Congress approved June 16, 1880 (Statutes at Large, Vol. 21, p. 245).

It contains the existing legislation of Congress of a general and permanent nature concerning the disposition and survey of the public domain. The present laws have been compiled in an orderly manner, but without changing either their substance or text. Each general subject of legislation is collated in a separate chapter, but the sections are, for convenient reference, numbered consecutively throughout the volume. Under each section complete references are given to the antecedent legislation upon the same subject and out of which said section has grown. Copious citations are also made under each section of all decisions construing the same in any manner, and embracing decisions by the Federal courts, the supreme courts of the several public land States and Territories, the Department of Justice, the Secretary of the Interior, and the Commissioner of the General Land Office.

All legislation of a local or temporary character has been omitted from this volume. The same appears in a second volume, wherein the entire chain of Congressional land acts is arranged chronologically for each State and Territory, and properly connected. It contains a table of authorities, wherein all judicial and executive decisions bearing upon each subject-matter are cited.

J. A. WILLIAMSON,
CLARENCE KING,
J. W. POWELL,
THOMAS DONALDSON,
A. T. BRITTON,
Commissioners.

WASHINGTON, *December 1, 1880.*

CHAPTER ONE.

SECRETARY OF THE INTERIOR.

Sec.

1. Supervisory authority of Secretary.
2. Power to grant military bounty-land warrants.
3. Exemplifications of papers.
4. Authority to take bonds of surveyors-general.
5. Shall require public land surveys to be completed.
6. Power to discontinue land offices.
7. Power to make allowances for office rent and clerk hire.
8. Repayment of purchase money, &c.
9. Remedial authority under treaty of 1854.
10. Correction of erroneous land entries.
11. Appraisement and sale of town-site reservations.
12. Authority to survey and plat a city or town.
13. Authority to vary subdivisional surveys in Nevada.
14. Geodetic surveys in Oregon and California.
15. Departure from rectangular surveys in California.
16. May pay surveyors by the day in Oregon and California.

Sec.

17. Location of land warrants free of expense.
18. May authorize issue of patents on lost land warrants.
19. May issue new land warrants in lieu of those lost.
20. May issue patents to the heirs of warrantees.
21. Board of equitable adjudication.
22. Shall have control of Yellowstone Park.
23. Duties relative to swamp lands.
24. Shall approve accounts of indemnity for swamp lands.
25. To give notice of completion of surveys in Minnesota and Oregon.
26. Required to sign requisitions on Treasury for moneys.
27. To prescribe the duties of Assistant Secretary.
28. To designate and set apart agricultural from mineral lands.
29. Shall prescribe regulations for subdivision of fractional sections.
30. Designation of newspapers for publication of proclamations of sales of lands.

SECTION 1. The Secretary of the Interior is charged with the supervision of public business relating to the following subjects: Supervisory authority of Secretary.

* * * * *

Second. The public lands, including mines.

- 2 Stat. 716; 5 *id.* 107; 9 *id.* 395; R. S. 441. *Wilcox v. Jackson*, 13 Pet. 498; *Maguire v. Tyler*, 1 Black, 195; *Snyder v. Sickles*, 8 Otto, 203; *Wolsey v. Chapman*, S. C., Oct. T., 1879, in manuscript; *Patterson v. Tatum*, 3 Saw. C. C. 164. 3 Op. Att. Gen. 137; 12 *id.* 250. 2 Laws, Instructions and Opinions, 104; 1 Lester, 681. *Hesters v. Brennan*, 50 Cal. 211.

SEC. 2. He shall grant warrants to parties entitled to land heretofore or hereafter given by the United States for military services. Power to grant military bounty-land warrants.

- 2 Stat. 717; R. S. 456.

SEC. 3. Copies of papers filed in the Interior Department and remaining therein shall be authenticated under the hand of the Secretary and the seal of the General Land Office. Exemplifications.

- 3 Stat. 721; 5 *id.* 111; R. S. 460.

Authority to take bonds from surveyors-general. SEC. 4. The bonds of surveyors-general shall be executed and delivered to the Secretary of the Interior.

3 Stat. 697; R. S. 2215. U. S. v. Tingey, 5 Pet. 115; U. S. v. Stephenson, 1 McLean, C. C. 462; Farrar v. U. S., 5 Pet. 373.

Shall complete public land surveys. SEC. 5. He shall take the necessary measures for the completion of the public-land surveys.

5 Stat. 384; 19 *id.* 121; R. S. 2218.

Power to discontinue land offices. SEC. 6. He shall discontinue the land office in any district wherein the public lands are reduced to less than one hundred thousand acres, and shall give notice at what convenient existing land office such residue shall be subject to sale.

5 Stat. 455; R. S. 2249; Mathews v. Zane's Lessee, 5 Cranch, 95; same case, 7 Wheat. 164.

Allowances to local offices. SEC. 7. He shall make a reasonable allowance for office rent for consolidated land offices, and may approve the employment of clerks by the register.

12 Stat. 131; R. S. 2255.

Repayment of purchase money. SEC. 8. He is authorized to repay the purchase money, fees, commissions, and excess payments in cases where the lands have been erroneously sold and the title cannot be confirmed.

4 Stat. 80; 11 *id.* 387; act June 16, 1880; R. S. 2362. 4 Op. Att. Gen. 277. Decisions Sec. Int., Aug. 17, 1849; July 23, 1864; April 15, 1878; Aug. 5, 1878; May 7, 1879; Nov. 20, 1878; July 1, 1879; July 29, 1879; Aug. 12, 1878; Jan. 8, 1880.

Remedial authority under treaty of 1854. SEC. 9. He is authorized to permit innocent parties who purchased and located claims arising under the treaty of September thirty, eighteen hundred and fifty-four, to perfect their entries with cash or military bounty-land warrants.

17 Stat. 340; R. S. 2368. Decisions Sec. Int., July 6, 1876; July 19, 1879; May 6, 1880.

Correction of erroneous entries. SEC. 10. He is authorized to allow erroneous entries of lands sold at private sale and warrant locations to be corrected; and this authority extends to patented cases upon surrender of the patent with satisfactory relinquishment of title indorsed thereon.

3 Stat. 526; 4 *id.* 301; 10 *id.* 257; R. S. 2369, 2370, 2371.

Appraisement and sale of town-site reservations. SEC. 11. When, in the opinion of the President, the public interests require it, he shall cause town-site reservations to be surveyed into lots; shall fix their cash value by appraisement of disinterested persons; and, after offering same at public entry to the highest bidder, shall prescribe regulations for sale of the residue at private entry at not less than the appraised values. All such sales shall be conducted by the register and receiver of the proper land district.

12 Stat. 754; R. S. 2381. U. S. v. Hare, 4 Saw. C. C. 653.

Authority to survey and plat a city or town. SEC. 12. He may cause a survey and plat to be made of a city or town, if within twelve months from its establishment on the public domain the parties interested do not file in the General Land Office the showing required by law; and thereafter the minimum price of lots included therein shall be increased fifty per centum.

13 Stat. 344; R. S. 2384.

SEC. 13. He may vary the subdivisional surveys in the State of Nevada from a rectangular form to suit the circumstances of the country. Authority to vary subdivisional surveys in Nevada.

14 Stat. 86; R. S. 2408. *Hoydenfeldt v. Mining Co.*, 3 Otto, 634.

SEC. 14. He may authorize the geodetic method of survey in Oregon and California. Geodetic surveys in Oregon and California.

9 Stat. 496; 10 *id.* 245; R. S. 2409.

SEC. 15. He may direct a departure from the rectangular mode of survey in the State of California. Departure from rectangular surveys in California.

10 Stat. 245; R. S. 2410.

SEC. 16. He may direct compensation by the day for surveys in Oregon and California. Pay for surveys by day in Oregon and California.

10 Stat. 247; R. S. 2411.

SEC. 17. He may prescribe regulations for the location and patenting, free of expense, of any military bounty-land warrant transmitted for that purpose to the General Land Office. Location of warrants free of expense.

9 Stat. 521; R. S. 2437. *Decision Sec. Int.*, March 1, 1876.

SEC. 18. He may authorize issue of patents in cases of lost military bounty-land warrants. Patents to issue on lost land warrants.

3 Stat. 317; R. S. 2439.

SEC. 19. He shall cause new bounty-land warrants to be issued in lieu of lost or destroyed warrants, and shall prescribe regulations for the prevention of frauds. May issue new land warrants in lieu of those lost.

12 Stat. 90; 18 *id.* 111; R. S. 2441, 2442.

SEC. 20. He shall issue patents to the heirs of persons entitled to bounty lands. Patents to heirs of warrantees.

5 Stat. 650; R. S. 2443.

SEC. 21. Conjointly with the Attorney-General and the Commissioner of the General Land Office, he shall prescribe regulations for the equitable decision of suspended entries of public lands and of suspended pre-emption claims, and adjudicate in what cases patents shall issue upon the same. Board of adjudication.

9 Stat. 51; 10 *id.* 258; 11 *id.* 22; 18 *id.* 50; 19 *id.* 244; R. S. 2450, 2451.

SEC. 22. He shall have exclusive control of the Yellowstone Park, with authority to lease portions thereof. Yellowstone Park.

17 Stat. 33; R. S. 2475.

SEC. 23. He shall make accurate lists and plats of the swamp and overflowed lands granted to the several States and transmit same to the governors thereof; and at the request of the governor of any State in which such lands are situate, he shall cause patents to be issued conveying to said State the fee-simple of said lands. Swamp and overflowed lands.

9 Stat. 519; R. S. 2479, 2480. *Railroad Co. v. Smith*, 9 Wall. 95; *French v. Fyan*, 3 Otto, 169; *Martin v. Marks*, 7 *id.* 345. 9 Op. Att. Gen. 253. *Clarkson v. Buchanan*, 53 Mo. 563; *Masterson v. Marshall*, 65 *id.* 94; *Funkhouser v. Peck*, 67 *id.* 20; *Busch v. Donohue*, 31 Mich. 481; *Kile v. Tubbs*, 23 Cal. 431; *Kernan v. Griffith*, 27 *id.* 87; *Fremont Co. v. R. R. Co.*, 22 Iowa, 91; *R. R. Co. v. Brown*, 40 *id.* 333; *Page Co. v. R. R. Co.*, 40 *id.* 520; *Ed-*

monson v. Corn, 62 Ind. 17; Gratham v. Atkins, 62 Ills. 359; Smith v. Goodell, 66 id. 450; Compton v. Prince, 67 id. 281; Gaston v. Scott, 5 Oreg. 48.

Indemnity for swamp lands. SEC. 24. Indemnity for swamp lands sold by the United States shall not be allowed until approved by the Secretary of the Interior.

10 Stat. 634, 635; R. S. 2482.

Notice of completed surveys in Minnesota and Oregon. SEC. 25. He shall notify the governors of the States of Minnesota and Oregon when public land surveys have been completed and confirmed in said States.

12 Stat. 3; R. S. 2490. Gaston v. Scott, 5 Oreg. 48. Decisions Sec. Int., Oct. 13, 1876; Jan. 7, 1879; April 15, 1880.

Requisitions for money upon Treasury. SEC. 26. He shall sign all requisitions for the advance or payment of money out of the Treasury, on estimates or accounts approved or certified by the Commissioner of the General Land Office, subject to the control of the proper accounting officers of the Treasury.

9 Stat. 395; R. S. 444. 1 Lester, 314.

To prescribe duties of Assistant Secretary. SEC. 27. He shall prescribe the duties of the Assistant Secretary of the Interior, who shall act as the Secretary of the Interior in the absence of that officer.

12 Stat. 369; R. S. 439.

Designation of agricultural from mineral lands. SEC. 28. Upon the survey of lands designated as mineral, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands and be subject to all the laws and regulations applicable to the same.

14 Stat. 253; R. S. 2342.

Subdivision of fractional sections. SEC. 29. He shall prescribe regulations for the subdivision of fractional sections.

3 Stat. 566; 4 id. 503; R. S. 2397. Gazzam v. Phillips' Lessee et al., 20 How. 372. 3 Op. Att. Gen. 281. Decision Com. G. L. O., May 17, 1875.

Designation of newspaper to publish proclamations for sale of lands. SEC. 30. It shall be the duty of the Secretary of the Interior to designate one newspaper in each State or Territory, where public lands are situated, for the publication of all Executive proclamations relating to the sale of public lands.

19 Stat. 221.

CHAPTER TWO.

THE GENERAL LAND OFFICE.

Sec.

31. Commissioner of the General Land Office.
32. Duties of the Commissioner.
33. Commissioner to have custody of seal, books, records, &c.
34. Commissioner to make plats and furnish information when required by the President or Congress.
35. To audit and settle accounts relative to public lands.
36. Fees for exemplified copies of records and patents.
37. Entry of lands in States where there are no land offices.
38. Commissioner to perform duties of surveyor-general when surveying district is discontinued.
39. Appeals from decisions of district land officers and Commissioner in pre-emption contests.
40. Where pre-emptor after filing for land becomes register or receiver.
41. Commissioner has power to regulate costs of survey and publications in mineral cases.
42. Commissioner to fix maximum price of reservations restored to market.
43. Commissioner authorized to allow erroneous description in entries to be corrected.
44. Commissioner shall prescribe regulations for sale of town lots.
45. Commissioner shall approve all contracts for surveys.
46. Commissioner's instructions deemed part of contract for surveying.
47. Commissioner shall fix the price of public surveys and instruct surveyors-general how to keep accounts of costs of surveys of private land claims.
48. Commissioner shall issue instructions for surveys under deposit system.
49. Commissioner may allow augmented rates for surveys of forests, &c., in Oregon.
50. Commissioner may allow augmented rates for surveys of forests, &c., in California and Washington Territory.
51. Commissioner shall prescribe regulations and terms for geodetic surveys in Oregon and California.
52. Commissioner may allow compensation by the day for surveys in Oregon and California.

Sec.

53. Commissioner shall prescribe regulations for assignment and location of bounty-land warrants.
54. Commissioner shall cause bounty-land warrants to be located free of expense.
55. Commissioner shall prescribe regulations for relocation of bounty-land warrants.
56. Commissioner, conjointly with Secretary of Interior and Attorney-General, shall adjudicate suspended entries.
57. Commissioner may order certain lands into market without Presidential proclamation.
58. Commissioner may reissue patents on entries confirmed by board of equitable adjudication.
59. Commissioner shall prepare copies of records and papers for use in courts of justice.
60. Commissioner shall allow indemnity for swamp lands.
61. Commissioner may make regulations for execution of public land laws.
62. Commissioner to perform duties of recorder of land titles for Missouri.
63. Commissioner shall issue patents for public lands and private land claims.
64. Commissioner to issue patents on claims heretofore confined.
65. Fee-simple to pass in all grants of land to States and Territories where lands are of character granted.
66. Chief clerk General Land Office.
67. Recorder General Land Office.
68. Duties of recorder.
69. Patents, how executed.
70. Principal clerks of public lands and private land claims.
71. Officers, clerks, and employes of General Land Office not to be interested in purchase of public lands.
72. Secretary to the President to sign land patents.
73. Assistant Secretary to sign land patents.
74. Warrants for military lands to be recorded, &c.
75. Authentication of papers filed in the Department of the Interior.
76. Principal clerk of surveys.

Commissioner
of the General
Land Office.

SEC. 31. There shall be in the Department of the Interior a Commissioner of the General Land Office, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of four thousand dollars a year.

2 Stat. 717; 5 *id.* 107; 17 *id.* 508; R. S. 446.

Duties of Com-
missioner.

SEC. 32. The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of lands, and the issuing of patents for all grants of land under the authority of the Government.

2 Stat. 716; 5 *id.* 107; 18 *id.* 62, 317; R. S. 453. *Foley v. Harrison*, 15 How. 433; *Barnard's Heirs v. Ashley's Heirs*, 18 *id.* 43; *Bell v. Hearne*, 19 *id.* 252; *Castro v. Hendricks*, 23 *id.* 438; *Maquire v. Tyler*, 1 Black, 195; *Harkness v. Underhill*, 1 *id.* 316; *U. S. v. Commissioner*, 5 Wall. 563; *Gaines v. Thompson*, 7 *id.* 349; *Sec'y v. McGarrahan*, 9 *id.* 298; *Johnson v. Towsley*, 13 *id.* 72. 12 Op. Att. Gen. 250. *Le Roy v. Clayton*, 2 Saw. C. C. 493; *Patterson v. Tatum*, 3 *id.* 164; *Le Roy v. Jamison*, 3 *id.* 369. *Lott v. Prudhomme*, 3 Rob. (La.) 293; *Bettis v. Amonett*, 4 *id.* 364; *Foley v. Harrison*, 5 *id.* 75; *Gurdry v. Wood*, 19 *id.* 234; *Lamont v. Stinson*, 3 Wis. 545; *Fremont Co. v. R. R. Co.*, 22 Iowa, 91; *Bellows v. Todd*, 34 *id.* 18; *Brill v. Stiles*, 35 Ills. 305; *Aldrich v. Aldrich*, 37 *id.* 32; *Lewis v. Lewis*, 9 Mo. 183; *Pope v. Athearn*, 42 Cal. 606; *Hosmer v. Wallace*, 47 *id.* 461; *Parker v. Duff*, 47 *id.* 554; *McGarrahan v. Mining Co.*, 49 *id.* 331; *Hesters v. Brennan*, 50 *id.* 211; *Vance v. Kohlburg* 50 *id.* 346; *Weaver v. Fairchild*, 50 *id.* 360; *Fugy v. Hensley*, 52 *id.* 299.

Custody of seal,
books, records,
&c.

SEC. 33. The Commissioner of the General Land Office shall retain the charge of the seal heretofore adopted for the office, which may continue to be used, and of the records, books, papers, and other property appertaining to the office.

2 Stat. 717; R. S. 454.

Plats of lands
surveyed.

SEC. 34. The Commissioner of the General Land Office shall, when required by the President, or either House of Congress, make a plat of any land surveyed under the authority of the United States, and give such information respecting the public lands and concerning the business of his office as shall be directed.

2 Stat. 717; R. S. 455.

Returns and ac-
counts relative to
lands.

SEC. 35. All returns relative to the public lands shall be made to the Commissioner of the General Land Office; and he shall have power to audit and settle all public accounts relative to the public lands; and upon the settlement of any such accounts he shall certify the balance, and transmit the account with the vouchers and certificate to the First Comptroller of the Treasury, for his examination and decision thereon.

2 Stat. 717; R. S. 456.

Fees for exem-
plifications of
patents, &c.

SEC. 36. All exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies

of township plats or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; and one of the employés of the office shall be designated by the Commissioner as the receiving clerk, and the amount so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish.

13 Stat. 375; R. S. 461. *Lane v. Bommelmann*, 17 Ill. 95; *Lacy v. Davis*, 4 Mich. 140; *Gilman v. Ripela*, 18 *id.* 145; *Clark v. Hill*, 19 *id.* 356; *Boyd v. Stambaugh*, 34 *id.* 348; *Ansley v. Peterson*, 30 Wis. 653; *McLean v. Bovee*, 35 *id.* 27; *Kelly v. Wallace*, 14 Minn. 336; *Washburn v. Mendenhall*, 21 *id.* 332; *Barton v. Murrain*, 27 Mo. 235; *Railroad Co. v. Moore*, 37 *id.* 338; *Stephen v. Westwood*, 25 Ala. 716; *Smith v. Mosier*, 5 Blackf. (Ind.) 51. Cir. G. L. O., July 20, 1875.

SEC. 37. That public lands situated in States in which there are no land offices may be entered at the General Land Office, subject to the provisions of law touching the entry of public lands; and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record; and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury.

19 Stat. 315; 20 *id.* 201.

SEC. 38. Upon the discontinuance of any surveying district the authority, powers, and duties in relation to the survey, resurvey, or subdivision of lands therein and all matters and things connected therewith, as previously exercised by the surveyor-general, shall be vested in and devolved upon the Commissioner of the General Land Office; and deputy surveyors or other agents under his direction shall have free access to any field-notes, maps, records, and other papers, turned over to the authorities of any State pursuant to law, for the purpose of making copies thereof, without charge of any kind.

10 Stat. 152; R. S. 2220.

SEC. 39. Appeals from the decision of district officers in cases of contest for right of pre-emption shall be made to the Commissioner of the General Land Office, whose decision shall be final. No appeal therefrom be taken to the Secretary of the Interior.

5 Stat. 456; 11 *id.* 326; R. S. 2273. *Barnard v. Ashley*, 18 How. 43; *Garland v. Wynn*, 20 *id.* 6; *Lytle v. Arkansas*, 22 *id.* 193; *Harkness et al. v. Underhill*, 1 Black. 316; *Lindsey v. Hawse*, 2 *id.* 554; *Minnesota v. Batchelder*, 1 Wall. 109; *Litchfield v. Register and Receiver*, 9 *id.* 575; *Johnson v. Towsley*, 13 *id.* 72; *Warren v. Van Brunt*, 19 *id.* 646; *Shepley et al. v. Cowan et al.*, 1 Otto, 330. 1 Op. Att. Gen. 201. *Laughlin v. McGarvey*, 50 Cal. 169.

SEC. 40. Where bona-fide settlers, under the homestead or pre-emption laws, have, subsequent to the date of filing their applications to enter not exceeding one quarter-section of

Entry of lands in States where there are no land offices.

Commissioner to perform duties of surveyor-general, &c.

Effect of Commissioner's decision in contested pre-emption cases.

Where claimant of entry becomes register or receiver.

public lands, been appointed a register or receiver of the land office of the district in which the lands are located, proof and payment must be made to the satisfaction of the Commissioner of the General Land Office.

17 Stat. 10; R. S. 2287. 4 Op. Att. Gen. 223; 7 *id.* 647.

Power to regulate costs of survey and publication in mineral cases.

SEC. 41. The Commissioner of the General Land Office shall have power to establish the maximum charges for surveys and the publication of notices under the mineral laws; and in case of excessive charges for publication he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper.

17 Stat. 95; 19 *id.* 52; R. S. 2334.

Commissioner to fix minimum price of reservation restored to market.

SEC. 42. Whenever any reservation of public lands is brought into market, the Commissioner of the General Land Office shall fix a minimum price, not less than one dollar and twenty-five cents per acre, below which such lands shall not be disposed of.

13 Stat. 374; R. S. 2364.

Correction of erroneous description in entries.

SEC. 43. In case of mistakes in description, the Commissioner is authorized, upon prescribed proof, to correct entries of public lands, where the same do not exceed one half-section, and where the certificate has not been assigned.

4 Stat. 31; R. S. 2372. *Wilson v. Byns*, 77 Ills. 76; *Corwan v. Johnson*, 29 Mo. 84; *State v. Commissioner*, 17 Wis. 248.

Regulations for sale of town lots.

SEC. 44. He shall prescribe regulations for the conduct of sales of town lots at public sale and by private entry.

12 Stat. 754; R. S. 2381. *Leech v. Ranch*, 3 Minn. 448.

Approval of surveying contracts.

SEC. 45. The Commissioner shall approve all contracts for the survey of the public lands.

12 Stat. 409; R. S. 2398. *Maguire v. Tyler*, 1 Black, 201; *Parke v. Ross*, 11 How. 362; *McKee v. U. S.*, 1 N. & H. 336.

Commissioner's instructions deemed part of contract for surveying.

SEC. 46. The instructions issued by the Commissioner of the General Land Office not in conflict with law shall be deemed part of every contract for surveying the public lands.

12 Stat. 409; R. S. 2399.

Price of surveys, how fixed. Accounts of costs of surveying private land claims.

SEC. 47. Subject to the statutory maximum, he shall fix the price per mile for public surveys, and he shall instruct the surveyor-general as to the mode of keeping accounts and making reports of the cost of surveying and platting private land claims.

12 Stat. 409; 18 *id.* 384; R. S. 2400.

Instructions for surveys upon deposit.

SEC. 48. He shall instruct the surveyor-general as to the survey of any townships upon the deposit by settlers of the cost thereof.

12 Stat. 410; R. S. 2401. *Cir. G. L. O.*, March 5, 1880.

Augmented rates for surveys of lands covered with forests, &c., in Oregon.

SEC. 49. The Commissioner of the General Land Office may authorize, in his discretion, public lands in Oregon, densely covered with forests or thick undergrowth, to be surveyed at augmented rates, not exceeding eighteen dollars per mile for standard parallels, fifteen dollars for townships, and twelve dollars for section lines.

16 Stat. 304, 305; R. S. 2404. *Decision Sec. Int.*, June 16, 1879.

SEC. 50. The Commissioner of the General Land Office, in his discretion, may hereafter authorize public lands in California and in Washington Territory, densely covered with forests or thick undergrowth, to be surveyed at augmented rates, not exceeding eighteen dollars per linear mile for standard parallels, sixteen dollars for townships, and fourteen dollars for section lines.

Ibid. for California and Washington.

17 Stat. 358; R. S. 2405. Decision Sec. Int., June 16, 1879.

SEC. 51. When geodetic surveys in Oregon and California are authorized by the Secretary of the Interior, the Commissioner shall prescribe the regulations and terms for the execution thereof.

Regulations for geodetic surveys.

9 Stat. 496; 10 *id.* 245; R. S. 2409.

SEC. 52. Under the direction of the Secretary of the Interior, the Commissioner may allow compensation by the day for public surveys in Oregon and California.

Compensation by the day for surveying in Oregon and California.

10 Stat. 247; R. S. 2411.

SEC. 53. The Commissioner shall prescribe regulations for the making and execution of assignments of military bounty-land warrants, and for the location thereof.

Regulations for assignment and location of land warrants.

10 Stat. 3; 11 *id.* 309; R. S. 2414. *Bouldin et al. v. Massie's Heirs*, 7 Wheat. 122. *Nichols v. Nichols*, 3 Pinney (Wis.) 174; *Price v. Johnston*, 1 Ohio St. 390; *Duke v. Thompson*, 16 Ohio 34; *Mock v. Brammer*, 28 *id.* 508; *Dupre v. McCright*, 6 La. 146; *B. & M. R. R. Co. v. Clingman*, 23 Iowa, 306; *Waters v. Bush*, 42 *id.* 255; *Dyke v. McVey*, 16 Ills. 41. Decision Sec. Int., March 1, 1876.

SEC. 54. Pursuant to regulations to be prescribed by the Secretary of the Interior, the Commissioner shall cause to be located, free of expense, military bounty-land warrants transmitted to him for that purpose by the holders thereof.

Commissioner to locate land warrants.

9 Stat. 521; R. S. 2437. Decision Sec. Int., March 1, 1876.

SEC. 55. The Commissioner shall prescribe regulations for the relocation of military bounty-land warrants erroneously located by actual settlers.

Regulations for relocation of land warrants.

10 Stat. 256; R. S. 2446.

SEC. 56. Conjointly with the Secretary of the Interior and the Attorney-General, he shall prescribe regulations for the equitable decision of suspended entries of public lands and of suspended pre-emption claims, and adjudicate in what cases patents shall issue upon the same, and report such adjudication to Congress.

Equitable adjudication of suspended entries and reports to Congress.

9 Stat. 51; 10 *id.* 258; 11 *id.* 22; 18 *id.* 50; 19 *id.* 244; R. S. 2450, 2452.

SEC. 57. Upon public notice of at least thirty days by the proper register and receiver, the Commissioner may order into market, without Presidential proclamation, all lands embraced in claims rejected by the board for equitable adjudication, and isolated or disconnected parcels of unoffered lands.

Power to order certain lands into market without proclamation.

9 Stat. 51; R. S. 2455.

SEC. 58. The Commissioner shall issue patents upon entries confirmed by the board for equitable adjudication,

Reissue of patents.

when such entries had been previously patented and the patents surrendered for cancellation.

10 Stat. 258; R. S. 2456.

Copies of records, &c., to be certified.

SEC. 59. The Commissioner shall cause to be prepared, and shall certify, under the seal of the office, such copies of records, books, and papers on file in his office as may be applied for to be used in evidence in courts of justice.

5 Stat. 111; 13 *id.* 375; R. S. 461, 891, 2469, 2470. *Galt v. Galloway*, 4 Pet. 331.

Indemnity for swamp lands.

SEC. 60. With the approval of the Secretary of the Interior, the Commissioner may, upon satisfactory proof, allow indemnity to the several States for swamp and overflowed lands granted to them by the act of September twenty-eighth, eighteen hundred and fifty, and sold by the United States prior to March third, eighteen hundred and fifty-seven.

10 Stat. 634, 635; 11 *id.* 251; R. S. 2482. 11 Op. Att. Gen. 467; *id.* July 25, 1877, in manuscript. Decisions Sec. Int., March 31, 1861; May 8, 1861; March 12, 1863; Feb. 8, 1868; Feb. 2, 1874. Decision Com. G. L. O., Feb. 17, 1879.

Power of Commissioner to make regulations.

SEC. 61. The Commissioner, under the direction of the Secretary of the Interior, is authorized to enforce and carry into execution every part of the public land laws not otherwise specially provided for.

R. S. 2478. *Bell v. Hearne et al.*, 19 How. 252; *Garland v. Wynn*, 20 *id.* 6. 3 Op. Att. Gen. 93, 104, 697; 10 *id.* 56. *Pope v. Athearn*, 42 Cal. 606; *McDowell v. Morgan*, 28 Ill. 528; *Foley v. Harrison*, 5 La. Ann. 75.

Commissioner to perform duties of recorder of land titles.

SEC. 62. The Commissioner shall possess and exercise all the powers and authority and perform all the duties heretofore required by law to be performed by the recorder of land titles in Missouri.

18 Stat. 62. *Hale v. Gaines et al.*, 22 How. 144; *Rector et al. v. U. S.*, 2 Otto, 698; *Scull v. U. S.*, 8 *id.* 410; *U. S. v. Clamorgan*, S. C., Oct. T., 1879, in manuscript. 1 Op. Att. Gen. 718. *Prim v. Horen*, 27 Mo. 205; *O'Flaherty v. Kellogg*, 59 *id.* 485. For acts prescribing duties of the recorder of land titles, see 2 Stat. 326, 353, 748, 812; 3 *id.* 86, 121, 329; 4 *id.* 52, 65, 566, 661; 19 *id.* 122.

Commissioner to issue patents.

SEC. 63. It shall be the duty of the Commissioner to issue patents for public lands and private land claims in all cases where the issue thereof is authorized by law.

2 Stat. 716; 5 *id.* 107; R. S. 453. *Bell v. Hearne*, 19 How. 252; *Castro v. Hendricks*, 23 *id.* 438; *Polk's Lessee v. Wendal et al.*, 9 Cranch, 87; *Hoofnagle v. Anderson*, 7 Wheat. 212; *Patterson v. Winn*, 11 *id.* 380; *Stringer et al. v. Young's Lessee*, 3 Pet. 320; *U. S. v. Arredondo*, 6 *id.* 691; *Bagnell v. Broderick*, 13 *id.* 436; *Stoddard v. Chambers*, 2 How. 284; *Lander v. Brant*, 10 *id.* 348; *Minter v. Crommelin*, 18 *id.* 87; *Field v. Seabury*, 19 *id.* 323; *Garland v. Wynn*, 20 *id.* 6; *Hooper v. Scheimer*, 23 *id.* 235; *Greer v. Mezes*, 24 *id.* 268; *U. S. v. Covilland*, 1 Black, 339; *U. S. v. Grimes*, 2 *id.* 610; *U. S. v. Stone*, 2 Wall. 525; *Hogan v. Page*, 2 *id.* 605; *Beard v. Federy*, 3 *id.* 478; *Hughes v. U. S.*, 4 *id.* 232; *U. S. v. Com.*, 5 *id.* 563; *Richart v. Phelps*, 6 *id.* 160; *Stark v. Starr*, 6 *id.* 402; *Silver v. Ladd*, 7 *id.* 29; *Maguire v. Tyler*, 8 *id.* 650; *Secretary v. McGarraban*, 9 *id.* 298; *Meador v. Norton*, 11 *id.* 442; *Johnson v. Towsley*, 13 *id.* 72; *Gibson v. Chouteau*, 13 *id.* 92; *Railway Co. v. Prescott*, 16 *id.* 603; *Henshaw v. Bissell*, 18 *id.* 255; *Langdeau v. Haines*, 21 *id.* 521; *Morton v. Nebraska*, 21 *id.* 660; *Miller v. Dale*, 2 Otto, 473; *Sherman v. Buick*, 3 *id.* 209;

McGarrahan v. Mining Co., 6 *id.* 316; Moore v. Robbins, 6 *id.* 530; Wirth v. Branson, 8 *id.* 118; Snyder v. Sickles, 8 *id.* 203; Cowell v. Colo. Springs Co., 10 *id.* 55; Simmons v. Wagner, S. C., Oct. T., 1879, in manuscript. Lewis v. Baird, 3 McLean, C. C. 56; Nelson v. Moon, 3 *id.* 319; Shedd v. Sawyer, 4 *id.* 181; Huidekoper v. Burrows, 1 Wash. C. C. 109; Mill and Mining Co. v. Dangbery, 1 Saw. C. C. 450; Le Roy v. Clayton, 2 *id.* 493; Dodge v. Perry, 2 *id.* 645; Le Roy v. Jamison, 3 *id.* 369; Patterson v. Tatum, 3 *id.* 164; Wyth v. Haskell, 3 *id.* 574; Hardy v. Harbin, 4 *id.* 536; Mackey v. Eaton, 2 Dillon, C. C. 41; U. S. v. Railway Co., 4 *id.* 397; Seabury v. Field, 1 McAllister, C. C. 60; Mezes v. Goeler, 1 *id.* 401; Chapman v. School Dist., 1 Deady, C. C. 108; Lamb v. Storr, 1 *id.* 447. 1 Op. Att. Gen. 44, 45, 159, 458, 718; 2 *id.* 15, 41, 186, 501; 3 *id.* 93, 240, 351, 623, 653; 4 *id.* 120, 149, 150, 319, 329; 5 *id.* 7, 628; 7 *id.* 491, 636, 681; 9 *id.* 108; 12 *id.* 250; 13 *id.* 456; 14 *id.* 601, 624. Stewart v. Parish, 6 Ohio, 477; Smith v. Stork, 7 *id.* 551; Sulivant v. Weaver, 10 *id.* 275; Trimble v. Boothly, 14 *id.* 109; Milker v. Starling, 16 *id.* 61; Jackson v. Williams, 18 *id.* 69; Subblefield v. Boggs, 2 Ohio St. 216; Wood v. Ferguson, 7 *id.* 288; Strong v. Lehman, 10 *id.* 93; Mathews v. Rector, 24 *id.* 439; Buckner v. Walcott, 1 Doug. (Mich.) 19; Stockton v. Williams, 1 *id.* 546; Clark v. Hall, 19 Mich. 356; Johnson v. Ballou, 28 *id.* 379; Sands v. Davis, 40 *id.* 14; Jackson v. Astor, 1 Pinney (Wis.) 137; Parkerson v. Brocker, 1 *id.* 174; Lamont v. ~~Johnson~~, 3 Wis. 45; Dillingham v. Fisher, 5 *id.* 475; Schnee v. Schnee, 23 *id.* 377; Aumont v. Green Bay & Miss. Co., 31 *id.* 317; Easton v. Lyman, 33 *id.* 34; Arnold v. Grimes, 2 Green (Iowa), 77; Cavender v. Smith, 3 *id.* 349; Arnold v. Grimes, 2 Iowa, 13; Cavender v. Smith's Heirs, 5 *id.* 157; Fisher v. Warner, 34 *id.* 447; Brison v. Cury, 35 *id.* 72; Waters v. Bush, 42 *id.* 255; Rankin v. Miller, 43 *id.* 11; Steeples v. Downing, 60 Ind. 478; Doo v. Hill, Breese (Ills.) 236; Moore v. Hunter, 6 Ills. 317; Ballance v. McFadden, 12 *id.* 317; Gray v. McFadden, 12 *id.* 324; Rankin v. Curtemus, 12 *id.* 334; Gratham v. Atkins, 63 *id.* 359; Vansickle v. Haines, 7 Nev. 249; Smith v. Pipe, 3 Colo. 187; Starr v. Stark, 2 Oreg. 118; White v. Allen, 3 *id.* 103; Gold Hill Co. v. Ish, 5 *id.* 104; Moore v. Wilkinson, 13 Cal. 478; Yount v. Howell, 14 *id.* 465; Mott v. Smith, 16 *id.* 534; Galup v. Armstrong, 22 *id.* 480; Kimball v. Semple, 26 *id.* 441; Keeran v. Griffith, 34 *id.* 580; Durfee v. Plaisted, 38 *id.* 80; Frisbee v. Morgues, 39 *id.* 451; Collins v. Bartlett, 44 *id.* 371; Canfield v. Thompson, 49 *id.* 210; McGarrahan v. Mining Co., 49 *id.* 331; Vance v. Kohlburg, 50 *id.* 346; Miller v. Ellis, 51 *id.* 73; Houghton v. Hardenburg, 53 *id.* 181; Cruz v. Martinez, 53 *id.* 239; Sarpy v. Papin, 7 Mo. 503; Barry v. Gamble, 8 *id.* 88; Allison v. Hunter, 9 *id.* 749; Cowman v. Johnson, 20 *id.* 108; Thomas v. Wyatt, 31 *id.* 188; Hill v. Miller, 36 *id.* 182; Gibson v. Chouteau, 39 *id.* 536; Maguire v. Tyler, 40 *id.* 406; Calloway v. Trash, 50 *id.* 420; Gaines and Rector v. Hale, 26 Ark. 168; Lott v. Prudhomme, 3 Rob. (La.) 293; Jenkins v. Gibson, 3 La. 203; McGill v. McGill, 4 *id.* 262; Foley v. Harrison, 5 *id.* 75; Pepper v. Dunlap, 9 *id.* 137; Bell v. Hearne, 10 *id.* 515; Cago v. Danks, 13 *id.* 128; Stemspring v. Bennett, 16 *id.* 201; Masters v. Eastis, 3 Port. (Ala.) 368; Goodlet v. Smithson, 5 *id.* 245; Jones v. Inge, 5 *id.* 327; Bullock v. Wilson, 5 *id.* 338; Innerarity v. Mims, 1 Ala. 660; Pollard v. Files, 3 *id.* 47; Hines v. Greenlee, 3 *id.* 73; Crommelin v. Minter, 9 *id.* 594; Etheridge v. Doe, 18 *id.* 565. Decision Sec. Int., Sept. 6, 1870. Decision Com. G. L. O., March 21, 1879.

SEC. 64. In case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land Office of plats of survey thereof, duly approved by the surveyor-general of

Patents to issue
for claims hereto-
fore confirmed.

any State or Territory, if the same be found correct by the Commissioner. But such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

10 Stat. 599; R. S. 2447. *Beard v. Federy*, 3 Wall. 478; *Maguire v. Tyler*, 8 *id.* 650; *Langdeau v. Hanes*, 21 *id.* 521; *Miller v. Dale*, 2 Otto, 473; U. S. v. *Throckmorton*, 8 *id.* 61; *Snyder v. Sickles*, 8 *id.* 203. 14 Op. Att. Gen. 624. Decisions Sec. Int., Feb. 21, 1872; Dec. 19, 1878; May 17, 1879. Decisions Com. G. L. O., Sept. 18, 1874; Sept. 19, 1876.

Fee simple to
pass in all grants
of land to States
and Territories.

SEC. 65. Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the lists of such lands which have been or may hereafter be certified by the Commissioner of the General Land Office, under the seal of his office, either as originals or copies of the originals or records, shall be regarded as conveying the fee-simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

10 Stat. 346; 18 *id.* 475; R. S. 2449. *Pope's Lessee v. Wendal*, 9 Cranch, 87; same case, 5 Wheat. 293; *Patterson v. Winn*, 11 *id.* 380; *Greenlief v. Birth*, 6 Pet. 302; *Lindsey v. Miller*, 6 *id.* 666; *Galloway v. Finley et al.*, 12 *id.* 264; *Stoddard v. Chambers*, 2 How. 284; *Foxcraft v. Martel*, 4 *id.* 353; *Minter v. Crommelin*, 18 *id.* 87; *Easton v. Salisbury*, 21 *id.* 426; U. S. v. *Stone*, 2 Wall. 525; U. S. v. *Hughes*, 4 *id.* 236; *Maguire v. Tyler*, 8 *id.* 653; *Best v. Polk*, 18 *id.* 112; *Morton v. Nebraska* 21 *id.* 660; *Sherman v. Buick*, 3 Otto, 209; *Moore v. Robbins*, 6 *id.* 533; *Marquez v. Frisbie*, S. C., Oct. T., 1879, in manuscript. *Le Roy v. Clayton*, 2 Saw. C. C. 493; *Patterson v. Tatum*, 3 *id.* 164; U. S. v. *Railroad Co.*, 4 Dillon, C. C. 397. *Hill v. Miller*, 36 Mo. 182; *Railroad Co. v. Moon*, 37 *id.* 338; *Same v. Smith*, 40 *id.* 310; *Shepley v. Cowan*, 52 *id.* 559; *Funkhouser v. Peck*, 67 *id.* 20; *McGill v. McGill*, 4 La. 262; *Huff v. Doyle*, 50 Cal. 21; *McLaughlin v. Perrill*, 50 *id.* 65; *Sutton v. Fassett*, 51 *id.* 13; *Rosecrans v. Douglass*, 52 *id.* 213. Decisions Sec. Int., May 3, June 26, 1879; May 4, July 17, 21, 28, 1880.

Chief clerk.

SEC. 66. There shall be in the General Land Office an inferior officer appointed by the Commissioner, to be employed therein as he shall deem proper, to be called the chief clerk. The chief clerk shall perform the duties of the Commissioner of the General Land Office in case of a vacancy in said office, or of the absence or sickness of the Commissioner.

2 Stat. 716; 11 *id.* 301; R. S. 448.

Recorder of
General Land Of-
fice.

SEC. 67. There shall be in the General Land Office an officer called the Recorder of the General Land Office, who shall be appointed by the President, by and with the advice

and consent of the Senate, and shall be entitled to a salary of two thousand dollars a year.

5 Stat. 111, 163, 164; R. S. 447.

SEC. 68. It shall be the duty of the Recorder of the General Land Office, in pursuance of instructions from the Commissioner, to certify and affix the seal of the office to all patents for public lands, and to attend to the correct engraving, recording, and transmission of such patents. He shall prepare alphabetical indexes of the names of patentees and of persons entitled to patents; and he shall prepare such copies and exemplifications of matters on file or recorded in the General Land Office as the Commissioner may from time to time direct. Whenever the office of Recorder shall become vacant, or in case of his sickness or absence, the duties of his office shall be performed ad interim by the principal clerk on private land claims. Duties of recorder.

2 Stat. 717; 5 *id.* 111; R. S. 459. *U. S. v. Arredondo*, 6 Pet. 691; *McGarrahan v. Mining Co.*, 6 Otto, 316. *Le Roy v. Jamison*, 3 Saw. C. C. 369. 3 Op. Att. Gen. 140, 168, 630. *Galup v. Armstrong*, 22 Cal. 480; *Sands v. Davis*, 40 Mich. 61.

SEC. 69. All patents issuing from the General Land Office shall be issued in the name of the United States, and be signed by the President and countersigned by the Recorder of the General Land Office; and shall be recorded in the office in books to be kept for the purpose. Issuing of patents for lands.

2 Stat. 717; 5 *id.* 417; R. S. 458. *Steeple v. Downing*, 60 Ind. 478; *Boyce v. Stambaugh*, 34 Mich. 348; *Lane v. Bommelmenn*, 17 Ills. 95; 3 Op. Att. Gen. 623.

SEC. 70. There shall be in the General Land Office a principal clerk of the public lands and a principal clerk on private land claims, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall each be entitled to a salary of one thousand eight hundred dollars a year; and they shall perform such duties as may be assigned to them by the Commissioner of the General Land Office. Principal clerks of public lands and on private land claims.

5 Stat. 109; R. S. 448.

SEC. 71. The officers, clerks, and employes in the General Land Office are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public lands; and any person who violates this section shall forthwith be removed from his office. Officers, &c., forbidden to purchase public lands.

2 Stat. 717; 5 *id.* 112; R. S. 452.

SEC. 72. The President is authorized to appoint, from time to time, by and with the advice and consent of the Senate, a secretary, at a salary of one thousand five hundred dollars a year, whose duty it shall be, under the direction of the President, to sign in his name, and for him, all patents for land sold or granted under the authority of the United States. Secretary to the President to sign land patents.

5 Stat. 111; R. S. 450. *Steeple v. Downing*, 60 Ind. 478. 3 Op. Att. Gen. 623.

SEC. 73. If at any time the number of patents for lands sold or granted under the authority of the United States Assistant secretary to sign land patents.

is such that they cannot be signed within a reasonable time by the secretary appointed under the preceding section, the President may appoint an assistant secretary to sign the same, but such assistant shall be employed by the express direction of the President, and only for such time as may be necessary to bring up the arrears of patents which may be ready for signature.

9 Stat. 209; R. S. 451.

Warrants for military lands to be recorded, &c.

SEC. 74. In all cases in which land has heretofore or shall hereafter be given by the United States for military services, warrants shall be granted to the parties entitled to such land by the Secretary of the Interior; and such warrants shall be recorded in the General Land Office, in books to be kept for the purpose, and shall be located as is or may be provided by law; and patents shall afterwards be issued accordingly.

2 Stat. 717; R. S. 457. *Taylor et al. v. Brown*, 5 Cranch, 234. *Laniviere v. Madagan*, 1 Dillon, C. C. 455; *Rice v. Taylor*, 2 *id.* 23; *Lewis v. Baird*, 3 McLean, C. C. 56; *Price v. Johnston*, 1 Ohio St. 390; *Wood v. Ferguson*, 7 *id.* 288.

Copies of papers filed in the department.

SEC. 75. Whenever any person claiming to be interested in or entitled to land under any grant or patent from the United States applies to the Department of the Interior for copies of papers filed and remaining therein, in anywise affecting the title to such land, it shall be the duty of the Secretary of the Interior to cause such copies to be made out and authenticated, under his hand and the seal of the General Land Office, for the person so applying.

3 Stat. 721; 5 *id.* 111; R. S. 460.

Principal clerk of the surveys.

SEC. 76. There shall be in the General Land Office a principal clerk of the surveys, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of one thousand eight hundred dollars a year. He shall direct and superintend the making of surveys, the returns thereof, and all matters relating thereto, which are done through the officers of the surveyor-general, and perform such other duties as may be assigned to him by the Commissioner of the General Land Office.

5 Stat. 110; R. S. 449.

CHAPTER THREE.

SURVEYS AND SURVEYORS.

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| <p>Sec.</p> <p>77. Surveyors-general, how and where appointed.</p> <p>78. Salary of, in Louisiana, Florida, Minnesota, Nebraska, Iowa, and Dakota.</p> <p>79. Salary of, in Oregon and Washington Territory.</p> <p>80. Salary of, in Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona.</p> <p>81. Salary of, in Florida, Oregon, and California, how and from what time payable.</p> <p>82. Offices, number and location of.</p> <p>83. Residence of surveyor-general.</p> <p>84. Bond of surveyor-general.</p> <p>85. Duration of office.</p> <p>86. Continuance of duties and bond after expiration of commission.</p> <p>87. Transfer of papers and discontinuance of office in case of completed surveys.</p> <p>88. Devolution of powers of surveyors-general upon Commissioner in case of discontinuance of office.</p> <p>89. Free access to public records delivered to States, and conditions of such delivery.</p> <p>90. General duties of surveyors-general.</p> <p>91. Bond of deputy surveyor.</p> <p>92. Oath of deputy surveyor.</p> <p>93. Suit on bond of deputy surveyor a lien on his property.</p> <p>94. Penalty for default of deputy surveyor.</p> <p>95. Transcripts from records, and seals of surveyors-general of California, Oregon, and Louisiana.</p> <p>96. Custody of official papers, &c., by surveyor-general of California.</p> <p>97. Allowance for clerk hire, office rent, &c., to surveyor-general.</p> <p>98. Duties of register and receiver performed by surveyor-general, when.</p> <p>99. Rules of survey.</p> <p>100. Boundaries and contents of public lands, how ascertained.</p> <p>101. Lines of division of half quarter-sections, how run.</p> | <p>Sec.</p> <p>102. Variance in shape of surveys on rivers, &c.</p> <p>103. Variance from rectangular subdivisions in Nevada.</p> <p>104. Geodetic method of survey in Oregon and California.</p> <p>105. Departure from rectangular surveys in California.</p> <p>106. Extension of public surveys over mineral lands.</p> <p>107. What instructions to be deemed part of contract.</p> <p>108. Subdivision of placer claims.</p> <p>109. Deputies to survey mining claims, and power of Commissioner to fix prices.</p> <p>110. Surveyor-general to make plat and field-notes of mining surveys, and to give certificate of improvements, &c.</p> <p>111. Contracts for surveys of public land, when binding.</p> <p>112. Costs of surveying private land claims and railroad grants to be refunded.</p> <p>113. Augmented rates for surveys in Oregon, California, and Washington Territory.</p> <p>114. Pay by the day for surveys in Oregon and California.</p> <p>115. When survey may be had by settlers in townships.</p> <p>116. Deposit for expenses of surveys deemed an appropriation, &c.</p> <p>117. Settlers' deposits for surveys to go in part payment for lands, and are assignable.</p> <p>118. Surveyor-general to survey private land claims when confirmed, &c.</p> <p>119. Surveyors-general in New Mexico, &c., to report to Congress on private land claims.</p> <p>120. Penalty for interrupting surveys.</p> <p>121. Protection of surveyor by marshal of district.</p> <p>122. Surveyors to explore and select timber lands to reserve for use of the Navy.</p> <p>123. Director of geological surveys, duties of, &c.</p> |
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SEC. 77. There shall be appointed by the President, by and with the advice and consent of the Senate, a surveyor-general for the States and Territories herein named, embracing, respectively, one surveying district, namely: Louisiana, Florida, Minnesota, Kansas, California, Nevada, Oregon, Nebraska and Iowa, Dakota, Colorado, New Mexico, Idaho, Washington, Montana, Utah, Wyoming, Arizona.

Surveyors-general, how and where appointed.

3 Stat. 755; 4 *id.* 492; 9 *id.* 496; 10 *id.* 244, 306, 308, 309, 611; 11 *id.* 212; 12 *id.* 176, 214, 244; 14 *id.* 77, 85, 344, 542; 15 *id.* 91; 16 *id.* 65, 230; 17 *id.* 76; 18 *id.* 18, 34, 121, 122, 123, 201, 303; 19 *id.* 126, 207; R. S. 2207.

Salary of, in Louisiana, Florida, Minnesota, Nebraska and Iowa, and Dakota.

SEC. 78. The surveyors-general of Louisiana, Florida, Minnesota, Kansas, Nebraska and Iowa, and of Dakota Territory, shall each receive a salary at the rate of two thousand dollars a year.

3 Stat. 755; 4 *id.* 493; 12 *id.* 244; 17 *id.* 76; R. S. 2208.

Salary of, in Oregon and Washington.

SEC. 79. The surveyors-general of Oregon and of Washington shall each receive a salary at the rate of two thousand five hundred dollars a year.

9 Stat. 496; 10 *id.* 158, 248, 306, 674; 12 *id.* 410; 17 *id.* 76; R. S. 2209.

Salary of, in Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona.

SEC. 80. The surveyors-general of Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona shall each receive a salary at the rate of three thousand dollars a year.

10 Stat. 244, 308, 611; 12 *id.* 176, 214, 410; 14 *id.* 77, 85, 542; 15 *id.* 91; 16 *id.* 65, 230; 17 *id.* 76; R. S. 2210.

Salaries of, in Florida, Oregon, and California, how and from what time payable.

SEC. 81. The salary of each surveyor-general of Florida, Oregon, and California shall be paid quarter-yearly, and shall commence from the time he enters into bond, as provided by law.

3 Stat. 756; 9 *id.* 496; 10 *id.* 244; R. S. 2211.

Offices, number and location.

SEC. 82. The surveyor-general's office for Minnesota district shall be located at the city of Saint Paul; that for Idaho Territory at Boise City; that for the district of Nebraska and Iowa at Plattsmouth, in Nebraska; that for each other surveying district at such place as the President, in view of the public convenience, may from time to time direct; and there shall be but one office of surveyor-general in each district.

11 Stat. 212; 13 *id.* 352; 14 *id.* 77, 344; R. S. 2212, 2213.

Residence of surveyor-general.

SEC. 83. Every surveyor-general, while in the discharge of the duties of his office, shall reside in the district for which he is appointed.

5 Stat. 637; R. S. 2414.

Bond of surveyor-general.

SEC. 84. Every surveyor-general shall, before entering on the duties of his office, execute and deliver to the Secretary of the Interior a bond, with good and sufficient security, for the penal sum of thirty thousand dollars, conditioned for the faithful disbursement, according to law, of all public money placed in his hands, and for the faithful performance of the duties of his office; and the President has discretionary authority to require a new bond and additional security, under the direction of the Secretary of the Interior, for the lawful disbursement of public moneys.

3 Stat. 697; R. S. 2215, 2216. U. S. v. Vanzandt, 11 Wheat. 184; U. S. v. Tingey, 5 Pet. 115; Farrar and Brown v. U. S., 5 *id.* 373; U. S. v. Bradley, 10 *id.* 343; U. S. v. Linn, 15 *id.* 290; U. S. v. Prescott, 3 How. 578; U. S. v. Boyd, 5 *id.* 29; Bryan v. U. S., 1 Black, 140; Boyden v. United States, 13 Wall. 17; Bevens v. U. S., 13 *id.* 56; U. S. v. Thomas, 15 *id.* 337; U. S. v. Stephenson, 1 McLean, C. C. 462; U. S. v. Linn, 2 *id.* 501; U. S. v. Ward, 3 *id.* 179. 8 Op.

Att. Gen. 7. Cir. G. L. O., July 1, 1871; *id.* May 14, 1879. Treasury Cir., July 13, 1871 (Copp's L. L. 783; 1 Lester's L. L. 312, 314).

SEC. 85. The commission of each surveyor-general shall cease and expire in four years from the date thereof, unless sooner vacated by death, resignation, or removal from office. Duration of office.

3 Stat. 697; R. S. 2217. *Best v. Polk*, 18 Wall. 112. Decision Com. G. L. O., Feb. 20, 1858 (1 Lester's L. L. 340).

SEC. 86. Every surveyor-general, except where the President sees cause otherwise to determine, is authorized to continue in the uninterrupted discharge of his regular official duties after the day of expiration of his commission and until a new commission is issued to him for the same office, or until the day when a successor enters upon the duties of such office; and the existing official bond of any officer so acting shall be deemed good and sufficient and in force until the date of the approval of a new bond to be given by him, if recommissioned, or otherwise, for the additional time he may so continue officially to act, pursuant to the authority of this section. Continuance of duties and bond after expiration of commission.

10 Stat. 247; 18 *id.* 62; R. S. 2222.

SEC. 87. Whenever the surveys and records of any surveying district are completed the surveyor-general thereof shall be required to deliver over to the secretary of state of the respective States, including such surveys, or to such other officer as may be authorized to receive them, all the field-notes, maps, records, and other papers appertaining to land titles within the same; and the office of surveyor-general in every such district shall thereafter cease and be discontinued. Transfer of papers and discontinuance of office in case of completed surveys.

5 Stat. 384; 19 *id.* 121; R. S. 2218.

SEC. 88. In all cases of discontinuance, as provided in the preceding section, the authority, powers, and duties of the surveyor-general in relation to the survey, resurvey, or subdivision of the lands therein, and all matters and things connected therewith, shall be vested in and devolved upon the Commissioner of the General Land Office. Devolution of powers upon Commissioner in case of discontinuance.

10 Stat. 152; R. S. 2219.

SEC. 89. Under the authority and direction of the Commissioner of the General Land Office, any deputy surveyor or other agent of the United States shall have free access to any such field-notes, maps, records, and other papers for the purpose of taking extracts therefrom or making copies thereof without charge of any kind; but no transfer of such public records shall be made to the authorities of any State until such State has provided by law for the reception and safe-keeping of such public records and for the allowance of free access thereto by the authorities of the United States. Free access to public records delivered to States and conditions of such delivery.

10 Stat. 152; 18 *id.* 62; R. S. 2220, 2221.

SEC. 90. Every surveyor-general shall engage a sufficient number of skillful surveyors as his deputies, to whom he is authorized to administer the necessary oaths upon their appointments. He shall have authority to frame regulations for their direction, not inconsistent with law or the instruc- General duties of surveyors-general.

tions of the General Land Office, and to remove them for negligence or misconduct in office.

Taylor and Quarlls v. Brown, 5 Cranch, 234; *Craig et al. v. Braxford*, 3 Wheat. 594; *Ellicott et al. v. Pearl*, 10 Pet. 412; *Brown's Lessee v. Clements*, 3 How. 650. *Reed v. Conway* 20 Mo. 22; same case, 26 *id.* 13; *Hamil v. Carr*, 21 Ohio St. 258; *Doe v. Hildreth*, 2 Ind. 274; *McClintock v. Rodgers*, 11 Ills. 279. Cir. G. L. O., June 26, 1880.

Second. He shall cause to be surveyed, measured, and marked, without delay, all base and meridian lines through such points and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed by law or by instructions from the General Land Office in respect to the public lands within his surveying district, to which the Indian title has been or may be hereafter extinguished.

Gazzam v. Phillips' Lessee, 20 How. 372. 3 Op. Att. Gen., 281, 284. *Atshire v. Hulse*, 1 Ohio, 170; *Hastings v. Stevenson*, 2 d. 9; *McKinney v. McKinney*, 8 *id.* 423; *Hamil v. Carr*, 21 Ohio St. 258; *Hendrick v. Eno*, 42 Iowa, 411; *Saint Louis v. Walker*, 40 Mo. 383; *Jordan v. Barrett*, 13 La. 24; *Fowler v. Duval*, 11 *id.* 561; *Cox v. Jones*, 47 Cal. 412. Cir. G. L. O., June 26, 1880.

Third. He shall cause to be surveyed all private land claims within his district after they have been confirmed by authority of Congress, so far as may be necessary to complete the survey of the public lands.

Menard's Heirs v. Massey, 8 How. 293; *Kissell v. St. Louis Public Schools*, 18 *id.* 19; *Stanford v. Taylor*, 18 *id.* 409; *Ballance v. Forsyth*, 24 *id.* 183; *U. S. v. Fossat*, 25 *id.* 445; *Carondelet v. St. Louis*, 1 Black, 179; *U. S. v. Sepulveda*, 1 Wall. 104; *U. S. v. Halleck*, 1 *id.* 439; *U. S. v. Billings*, 2 *id.* 444; *Sutter's case*, 2 *id.* 562; *U. S. v. Pacheco*, 2 *id.* 587; *Fossat case*, 2 *id.* 649; *Dehon v. Bernal*, 2 *id.* 774; *U. S. v. Armijo*, 5 *id.* 444; *Higueras v. U. S.*, 5 *id.* 827; *Maguire v. Tyler*, 8 *id.* 650; *Lynch v. Bernal*, 9 *id.* 315; *Henshaw v. Bissell*, 18 *id.* 255; *Shepley et al. v. Cowan et al.*, 1 Otto, 330; *Miller et al. v. Dale et al.*, 2 *id.* 473; *Van Reynegan v. Bolton*, 5 *id.* 33; *U. S. v. Throckmorton*, 8 *id.* 61; *Snyder v. Sickles*, 8 *id.* 203; *Scull v. U. S.*, 8 *id.* 410. *Bissell v. Henshaw*, 1 Saw. C. C. 553; *Leroy v. Jamison*, 3 *id.* 369. *Gibson v. Chouteau*, 39 Mo. 536; *Milburn v. Hardy*, 28 *id.* 514; *Funkhouser v. Hantz*, 29 *id.* 540; *Dent v. Legesson*, 29 *id.* 489; *Carondelet v. St. Louis*, 29 *id.* 527; *McGuire v. Tyler*, 30 *id.* 202; *Robins v. Eckler*, 36 *id.* 494; *Clark v. Heam-merle*, 36 *id.* 620; *Gibson v. Chouteau*, 39 *id.* 536; *Vasquez v. Ewing*, 42 *id.* 247; *Glasgow v. Lindell*, 50 *id.* 60; *Rector v. Gaines*, 19 Ark. 70; *Ashley v. Rector*, 20 *id.* 359; *Meaux v. Breaux*, 10 Martin (La.) 364; *Moon v. Wilkinson*, 13 Cal. 478; *Boggs v. Mining Co.*, 14 *id.* 279; *Mott v. Smith*, 16 *id.* 534; *Johnson v. Van Dyke*, 20 *id.* 225; *McGarraban v. Maxwell*, 27 *id.* 75; *Treadway v. Sample*, 28 *id.* 652; *Searle v. Ford*, 29 *id.* 104; *Mahoney v. Van Winkle*, 33 *id.* 448; *Morrill v. Chapman*, 35 *id.* 85; *Yates v. Smith* 38 *id.* 60; *San Diego v. Allison*, 46 *id.* 163. Decisions Sec. Int., July 16, 1872; Aug. 8, 1876; Aug. 17, 1876; March 16, 1877. Decisions Com. G. L. O., Aug. 18, 1860; Sept. 18, 1874; Nov. 3, 1874; Sept. 18, 1875; Oct. 28, 1875; June 26, 1879. Cir. G. L. O., June 26, 1880.

Fourth. He shall transmit to the register of the respective land offices within his district general and particular plats of all lands surveyed by him for each land district; and he shall forward copies of such plats to the Commissioner of the General Land Office.

Barnard v. Ashley, 18 How. 43; *Water and Mining Co. v. Bugbee*, 6 Otto, 165. *Hamil v. Carr*, 21 Ohio St. 258; *Doe v. Hildreth*, 2 Ind. 274; *Pope v. Athearn*, 42 Cal. 606. Com. G. L. O. Instructions to Surveyors-General, April 17, 1879.

Fifth. He shall, so far as is compatible with the duties of his office, occasionally inspect the surveying operations while in progress in the field, sufficiently to satisfy himself of the fidelity of the execution of the work according to contract, and the actual and necessary expenses incurred by him while so engaged shall be allowed; and where it is incompatible with his other duties for a surveyor-general to devote the time necessary to make a personal inspection of the work in progress, then he is authorized to depute a confidential agent to make such examination, and the actual and necessary expenses of such person shall be allowed and paid for that service, and five dollars a day during the examination in the field; but such examination shall not be protracted beyond thirty days, and in no case longer than is actually necessary; and when a surveyor-general, or any person employed in his office at a regular salary, is engaged in such special service he shall receive only his necessary expenses in addition to his regular salary.

1 Stat. 464; 13 *id.* 325; 4 *id.* 492; 10 *id.* 245, 247; 18 *id.* 34; 19 *id.* 126; R. S. 2233. Sec. Int. Instructions, July 1, 1874; Sept. 21, 1874. Cir. G. L. O., June 26, 1880.

SEC. 91. Every deputy surveyor shall enter into bond, with sufficient security, for the faithful performance of all surveying contracts confided to him; and the penalty of the bond, in each case, shall be double the estimated amount of money accruing under such contracts, at the rate per mile stipulated to be paid therein. The sufficiency of the sureties to all such bonds shall be approved and certified by the proper surveyor-general. Bond of deputy surveyor.

4 Stat. 493; 10 *id.* 247; R. S. 2230. U. S. v. Vanzandt, 11 Wheat. 184; U. S. v. Tingey, 5 Pet. 115; Farrar *et al.* v. U. S., 5 *id.* 373; U. S. v. Bradley, 10 *id.* 343; U. S. v. Linn, 15 *id.* 290. U. S. v. Stephenson, 1 McLean, C. C. 462.

SEC. 92. The surveyor-generals, in addition to the oath now authorized by law to be administered to deputies on their appointment to office, shall require each of their deputies, on the return of his surveys, to take and subscribe an oath that those surveys have been faithfully and correctly executed according to law and the instructions of the surveyor-general. Oath of deputy surveyor.

9 Stat. 79; R. S. 2231. Ellicott and Meredith v. Pearl, 10 Pet. 412; U. S. v. Hanson, 16 *id.* 196; Bollard *et al.* v. Dwight *et al.*, 4 Cranch, 421; Taylor *et al.* v. Brown, 5 *id.* 234. Cir. G. L. O., June 26, 1880.

SEC. 93. The district attorney of the United States, in whose district any false, erroneous, or fraudulent surveys have been executed, shall, upon the application of the proper surveyor-general, immediately institute suit upon the bond of such deputy, and the institution of such suit shall act as a lien upon any property owned or held by such deputy or his sureties at the time such suit was instituted. Suit on bond of deputy surveyor; lien of.

9 Stat. 79; R. S. 2232.

SEC. 94. In the event of the failure of a deputy in Louisiana to comply with the terms of his contract, unless such failure be satisfactorily shown by him to have arisen from causes beyond his control, he shall forfeit the penalty of his Penalty for default of deputy.

bond on due process of law, and ever afterward be debarred from receiving a contract for surveying public lands.

4 Stat. 493; 18 *id.* 19, 62; 19 *id.* 207, 221; R. S. 2233.

Seals of surveyors-general of California, Oregon, and Louisiana; transcripts from records of.

SEC. 95. The official seals heretofore authorized to be provided for the offices of the surveyors-general of Oregon, California, and Louisiana shall continue to be used; and any copy of or extract from the plats, field-notes, records, or other papers on file in those offices respectively, when authenticated by the seal and signature of the proper surveyor-general, shall be evidence in all cases in which the original would be evidence.

10 Stat. 245, 248; R. S. 2224, 2225. U. S. v. Delespine's Heirs *et al.*, 12 Pet. 654; U. S. v. Wiggins, 14 *id.* 334; Hedrick v. Hughes, 15 Wall. 123. Hensley v. Tarpey, 7 Cal. 288; Lawrence v. Grout, 12 La. Ann. 835.

Custody of official papers, &c., by surveyor-general of California.

SEC. 96. All official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies which have been heretofore authorized by law to be collected and deposited in the office of the surveyor-general of California shall be safely and securely kept by such surveyor-general in the archives of his office.

11 Stat. 289; R. S. 2229.

Clerk hire, office rent, &c., to surveyors-general.

SEC. 97. There shall be allowed for clerk hire, office rent, fuel, books, stationery, and other incidental expenses of the several offices of surveyors-general such sums as may be appropriated for such purposes by Congress from year to year.

R. S. 2226, 2227.

Duties of register and receiver performed by surveyor-general.

SEC. 98. The President is authorized, in any case where he thinks the public interest may require it, to transfer the duties of register and receiver in any district to the surveyor-general of the surveying district in which such land district is located.

12 Stat. 410; R. S. 2228.

Rules of survey.

SEC. 99. The public lands shall be divided by north and south lines run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of an Indian reservation, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers, may render this impracticable; and in that case this rule must be departed from no further than such particular circumstances require.

McKinney v. McKinney, 8 Ohio, 423; Hamil v. Carr, 21 Ohio St. 258. Decision Sec. Int., Jan. 28, 1880. Cir. G. L. O., June 26, 1880.

Second. The corners of the townships must be marked with progressive numbers from the beginning, each distance of a mile between such corners must be also distinctly marked with marks different from those of the corners.

Third. The township shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines at the end of every two miles; and by making a corner on each of such lines, at the end of every mile. The sections shall be numbered, respectively, beginning with the number one in the northeast section and proceeding

west and east alternately through the township with progressive numbers till the thirty-six be completed.

Grogan v. Knight, 27. Cal. 516. Decision Sec. Int., April 14, 1879.
Cir. G. L. O., June 26, 1880.

Fourth. The deputy surveyors, respectively, shall cause to be marked on a tree near each corner established in the manner described, and within the section, the number of such section, and over it the number of the township within which such section may be; and the deputy surveyors shall carefully note, in their respective field-books, the names of the corner-trees marked and the numbers so made.

Cir. G. L. O., June 26, 1880.

Fifth. Where the exterior lines of the townships which may be subdivided into sections or half-sections exceed, or do not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half-sections in such townships, according as the error may be in running the lines from east to west, or from north to south; the sections and half-sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity.

Knight v. Elliott, 57 Mo. 317; *Vaughn v. Tate*, 64 *id.* 491; *Waters v. Commons*, 2 Port. (Ala.) 38; *Lewen v. Smith*, 7 *id.* 428. Decision Sec. Int., April 14, 1879. Cir. G. L. O., June 26, 1880.

Sixth. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen and one-half feet each, subdivided into twenty-five equal links; and the chain shall be adjusted to a standard to be kept for that purpose.

Bradley v. Taylor, 5 Cranch, 191; *McIvers v. Walker*, 9 *id.* 173; *Shipp v. Miller's Heirs*, 2 Wheat. 316; *Holmes v. Trout*, 7 Pet. 171; *Brown v. Huger*, 21 How. 305; *Meron v. Whitney*, 5 Otto, 551; *Robinson v. Moon*, 4 McLean, C. C. 279. *Oakley v. Stuart*, 52 Cal. 521. Cir. G. L. O., June 26, 1880.

Seventh. Every surveyor shall note in his field-book the true situations of all mines, salt licks, salt springs, and mill-seats which come to his knowledge; all water courses over which the line he runs may pass; and also the quality of the lands.

Newsom v. Pryor's Lessee, 7 Wheat. 7; *Preston v. Boyman*, 6 *id.* 580; *Patterson v. Jenks*, 2 Pet. 216.

Eighth. These field-books shall be returned to the surveyor-general, who shall cause therefrom a description of the whole lands surveyed to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships and fractional parts of townships contained in the lands describing the subdivisions thereof and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; and a copy thereof shall be kept open at the surveyor-general's office for public information, and other copies shall be sent to the places of the sale and to the General Land Office.

1 Stat. 465; 2 *id.* 73; 19 *id.* 34; R. S. 2395. *Taylor et al. v. Brown*,

5 Cranch, 234; *Barnard v. Ashley*, 18 How. 43; *Water and Mining Co. v. Bugbee*, 6 Otto, 165. *Rector v. Gaines*, 19 Ark. 70; *Lewen v. Smith*, 7 Port. (Ala.) 428; *Mott v. Smith*, 16 Cal. 534; *Hamil v. Carr*, 21 Ohio St. 258; *Doe v. Hildreth*, 2 Ind. 274; *McClintock v. Rodgers*, 11 Ills. 279. *Decision Sec. Int.*, Jan. 15, 1878. *Decision Com. G. L. O.*, April 17, 1879.

Boundaries and contents of public lands, how ascertained.

SEC. 100. The boundaries and contents of the several sections, half-sections, and quarter-sections of the public lands shall be ascertained in conformity with the following principles:

First. All the corners marked in the surveys, returned by the surveyor-general, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the surveys, shall be placed as nearly as possible equidistant from two corners which stand on the same line.

Second. The boundary lines, actually run and marked in the surveys returned by the surveyor-general, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines, as returned, shall be held and considered as the true length thereof. And the boundary lines which have not been actually run and marked shall be ascertained by running straight lines from the established corners to the opposite corresponding corners; but in those portions of the fractional townships where no such opposite corresponding corners have been or can be fixed, the boundary lines shall be ascertained by running from the established corners due north and south or east and west lines, as the case may be, to the water-course, Indian boundary line, or other external boundary of such fractional township.

Mott v. Smith, 16 Cal. 534; *Guin v. Brandon*, 29 Ohio St. 656; *McClintock v. Rodgers*, 11 Ills. 279; *Goodman v. Myrick*, 5 Oreg. 65. *Cir. G. L. O.*, June 26, 1880.

Third. Each section or subdivision of section, the contents whereof have been returned by the surveyor-general, shall be held and considered as containing the exact quantity expressed in such return; and the half-sections and quarter-sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one-half or the one-fourth part, respectively, of the returned contents of the section of which they may make part.

2 Stat. 313; R. S. 2396. *Lindsey v. Hawes*, 2 Black, 554; *U. S. v. Pacheco*, 2 Wall. 587; *Railway Co. v. Schurmier*, 7 *id.* 272; *County of Saint Clair v. Livingston*, 23 *id.* 46; *Heidekoper v. Brooms*, 1 Wash. C. C. 109; *Coon v. Pen*, 1 Pet. C. C. 496. 2 Op. Att. Gen. 578. *Knight v. Elliott*, 57 Mo. 317; *Vaughn v. Tate*, 64 *id.* 491; *Waters v. Commons*, 2 Port. (Ala.) 38; *Lewen v. Smith*, 7 *id.* 428; *Billingsly v. Bates*, 30 Ala. 376; *Doe v. Hildreth*, 2 Ind. 274; *Grogan v. Knight*, 27 Cal. 516. *Decision Com. G. L. O.*, May 17, 1875. *Cir. G. L. O.*, June 26, 1880.

Lines of division of half quarter-sections, how run.

SEC. 101. In every case of the division of a quarter-section the line for the division thereof shall run north and south, and the corners and contents of half quarter-sections which may thereafter be sold shall be ascertained in the manner and on the principles directed and prescribed by the section preceding, and fractional sections containing

one hundred and sixty acres or upwards shall in like manner, as nearly as practicable, be subdivided into half quarter-sections, under such rules and regulations as may be prescribed by the Secretary of the Interior, and in every case of a division of a half quarter-section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter-sections, which may thereafter be sold, shall be ascertained, as nearly as may be, in the manner and on the principles directed and prescribed by the section preceding; and fractional sections containing fewer or more than one hundred and sixty acres shall in like manner, as nearly as may be practicable, be subdivided into quarter quarter-sections, under such rules and regulations as may be prescribed by the Secretary of the Interior.

3 Stat. 566; 4 *id.* 503; R. S. 2397. *Gazzam v. Phillips' Lessee*, 20 How. 372; *Railway Co. v. Schumier*, 7 Wall. 272. *Buel v. Tuley*, 4 McLean, C. C. 268. *Wharton v. Littlefield*, 30 Ala. 245. 3 Op. Att. Gen. 281, 284. Decision Sec. Int., April 14, 1879. Decision Com. G. L. O., May 17, 1875. Cir. G. L. O., June 26, 1880.

SEC. 102. Whenever, in the opinion of the President, a departure from the ordinary method of surveying land on any river, lake, bayou, or water-course would promote the public interest, he may direct the surveyor-general, in whose district such land is situated, and where the change is intended to be made, to cause the lands thus situated to be surveyed in tracts of two acres in width, fronting on any river, bayou, lake, or water-course, and running back the depth of forty acres; which tracts of land so surveyed shall be offered for sale entire, instead of in half quarter-sections, and in the usual manner, and on the same terms in all respects as the other public lands of the United States.

Variance in shape of surveys on rivers, &c.

4 Stat. 34; R. S. 2407.

SEC. 103. In extending the surveys of the public lands in the State of Nevada, the Secretary of the Interior may vary the lines of the subdivisions from a rectangular form, to suit the circumstances of the country.

Variance from rectangular subdivisions in Nevada.

14 Stat. 86; R. S. 2408. *Heydenfeldt v. Mining Co.*, 3 Otto, 634.

SEC. 104. The Secretary of the Interior, if he deems it advisable, is authorized to continue the surveys in Oregon and California, to be made after what is known as the geodetic method, under such regulations and upon such terms as have been or may hereafter be prescribed by the Commissioner of the General Land Office; but none other than township lines shall be run where the land is unfit for cultivation; nor shall any deputy surveyor charge for any line except such as may be actually run and marked or for any line not necessary to be run.

Geodetic method of survey in Oregon and California.

9 Stat. 496; 10 *id.* 245; R. S. 2409.

SEC. 105. Whenever, in the opinion of the Secretary of the Interior, a departure from the rectangular mode of surveying and subdividing the public lands in California would promote the public interests, he may direct such change to be made in the mode of surveying and designating such lands as he deems proper, with reference to the existence of mountains, mineral deposits, and the advantages derived

Departure from rectangular surveys in California.

from timber and water privileges; but such lands shall not be surveyed into less than one hundred and sixty acres or subdivided into less than forty acres.

10 Stat. 245; R. S. 2410. Cir. G. L. O., June 26, 1880.

Extension of
public surveys
over mineral
lands.

SEC. 106. The public surveys shall extend over all mineral lands, and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands.

10 Stat. 15, 21; 16 *id.* 218; R. S. 2406.

What instruc-
tions to be deemed
part of contract.

SEC. 107. The printed manual of instructions relating to the public surveys, prepared at the General Land Office, and bearing date February twenty-second, eighteen hundred and fifty-five, the instructions of the Commissioner of the General Land Office, and the special instructions of the surveyor-general, when not in conflict with such printed manual or the instructions of the Commissioner, shall be taken and deemed to be a part of every contract for surveying the public lands.

12 Stat. 409; R. S. 2399. Cir. G. L. O., June 26, 1880.

Subdivision of
placer claims.

SEC. 108. Legal subdivisions of forty acres of placer lands may be subdivided into ten-acre lots.

16 Stat. 217; R. S. 2330.

Deputies to sur-
vey mining claims
and power of
Commissioner to
fix prices.

SEC. 109. The surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall have power to establish the maximum charges for such surveys; and to the end that he may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for surveys, which statement shall be transmitted to the Commissioner of the General Land Office.

17 Stat. 95; 19 *id.* 52; R. S. 2334. Decision Com. G. L. O., April 20, 1877.

Surveyor-general to make plat
and field-notes of
mining surveys,
and to give cer-
tificate of im-
provements, &c.

SEC. 110. The surveyor-general of the United States shall prepare or cause to be prepared a plat and field-notes of all mining surveys made by authority of law, which shall show accurately the boundaries of such claims; and, when warranted by the facts, he shall give to the claimant his certificate that five hundred dollars' worth of labor has been expended or improvements made upon the claim by the claimant or his grantors, and that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent.

17 Stat. 92; R. S. 2325.

SEC. 111. Contracts for the survey of the public lands shall not become binding upon the United States until approved by the Commissioner of the General Land Office, except in such cases as the Commissioner may otherwise specially order.

Contracts for surveys of public lands, when binding.

12 Stat. 409; R. S. 2398. *Maguire v. Tyler*, 1 Black, 201; *Parks v. Ross*, 11 How. 362; *Spencer v. Lapaley*, 20 *id.* 264. *Reed v. Conway*, 26 Mo. 13. Decision Sec. Int., Feb. 27, 1878.

SEC. 112. The Commissioner of the General Land Office has power, and it shall be his duty, to fix the prices per mile for public surveys, which shall in no case exceed the maximum established by law; and, under instructions to be prepared by the Commissioner, an accurate account shall be kept by each surveyor-general of the cost of surveying and plotting private land claims, to be reported to the General Land Office, with the map of such claim; and patents shall not issue for any such private claim, nor shall any copy of such survey be furnished, until the cost of survey and platting has been paid into the Treasury by the claimant or other party; and before any land granted to any railroad company by the United States shall be conveyed to such company or any persons entitled thereto, under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

Price of surveys, how established.

Cost of surveying private claims and railroad grants to be refunded.

12 Stat. 409; 18 *id.* 384; 19 *id.* 122; R. S. 2400. *Railway Co. v. Prescott*, 16 Wall. 603; *Railway Co. v. McShane*, 22 *id.* 444; *Hannewell v. Cass Co.*, 22 *id.* 464; *Colorado Co. v. Commissioners*, 5 Otto, 259. Decisions Sec. Int., Dec. 17, 1874; Feb. 27, 1878; Feb. 20, 1879; March 5, 1879; April 2, 1879. Decisions Com. G. L. O., April 18, 1867; Aug. 8, 1867; Feb. 17, 1869; March 26, 1870. Cir. G. L. O., June 26, 1880.

SEC. 113. The Commissioner of the General Land Office may authorize, in his discretion, public lands in Oregon, densely covered with forests or thick undergrowth, to be surveyed at augmented rates, not exceeding eighteen dollars per mile for standard parallels, fifteen dollars for townships, and twelve dollars for section lines; and under like conditions he may allow augmented rates in California, and in Washington Territory, not exceeding eighteen dollars per linear mile for standard parallels, sixteen dollars for township, and fourteen dollars for section lines.

Augmented prices for surveys in Oregon, California, and Washington Territory.

16 Stat. 304, 305; 17 *id.* 358; R. S. 2404, 2405. Decision Sec. Int., June 16, 1879. Cir. G. L. O., June 26, 1880.

SEC. 114. Whenever the public surveys, or any portion of them, in the States of Oregon and California, are so required to be made as to render it expedient to make compensation for the surveying thereof by the day instead of by the mile, it shall be lawful for the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, to make such fair and reasonable allowance as, in his judgment, may be necessary to insure the accurate and faithful execution of the work.

Pay by the day for surveys in Oregon and California.

10 Stat. 247; R. S. 2411. Decision Sec. Int., June 16, 1879. Cir. G. L. O., June 26, 1880.

When survey may be had by settlers in township.

SEC. 115. When the settlers in any township, not mineral or reserved by Government, desire a survey made of the same, under the authority of the surveyor-general, and file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it may be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township and make return thereof to the general and proper local land office, provided the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys.

12 Stat. 410; R. S. 2401. Decision Sec. Int., Jan. 23, 1880. Cir. G. L. O., June 27, 1879; March 5, 1880.

Deposit for expenses of surveys deemed an appropriation, &c.

SEC. 116. The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

13 Stat. 404; R. S. 2402. Cir. G. L. O., June 27, 1879.

Settlers' deposits for surveys to go in part payment of lands, and are assignable.

SEC. 117. Where settlers make deposits in accordance with the provisions of section one hundred and fifteen, the amount so deposited shall go in part payment for their lands situated in the townships, the surveying of which is paid for out of such deposits; or the certificates issued for such deposits may be assigned by endorsement and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise.

16 Stat. 581; 19 *id.* 38; 20 *id.* 352; R. S. 2403. Cir. G. L. O., June 27, 1879.

Surveyors-general to survey private land claims when confirmed, &c.

SEC. 118. Each surveyor-general, when thereunto duly authorized by law, shall cause all confirmed private land claims within his district to be accurately surveyed, and shall transmit plats and field-notes thereof to the Commissioner of the General Land Office for his approval. When publication of such surveys is authorized by law, the proof thereof, together with any objections properly filed and all evidence submitted either in support of or in opposition to the approval of any such survey, shall also be transmitted to said Commissioner.

2 Stat. 326, 352; 3 *id.* 325; 5 *id.* 740; 9 *id.* 242, 633; 10 *id.* 244, 308, 599; 11 *id.* 294; 12 *id.* 172, 209, 369, 409; 13 *id.* 332, 344; 14 *id.* 218; 16 *id.* 64, 304; 18 *id.* 305; 19 *id.* 121, 202; R. S. 2447. Bissell v. Penrose, 8 How. 317; Villalobos v. U. S., 10 *id.* 541;

Ledoux v. Black, 18 *id.* 473; *U. S. v. Fossat*, 20 *id.* 413; *Brown v. Huger*, 21 *id.* 305; *U. S. v. Fossat*, 21 *id.* 445; *Castro v. Hendricks*, 23 *id.* 438; *Ballance v. Forsyth*, 24 *id.* 183; *U. S. v. Sepulveda*, 1 Wall. 104; *U. S. v. Halleck* 1 *id.* 439; *U. S. v. Vallejo*, 1 *id.* 658; *Sutter's case*, 2 *id.* 562; *Fossat case*, 2 *id.* 649; *Higueras v. U. S.*, 5 *id.* 827; *Alviso v. U. S.*, 8 *id.* 337. 12 Op. Att. Gen. 116, 250; 14 *id.* 74, 601. *U. S. v. Garcia*, 1 Saw. C. C. 383; *Russell v. Henshaw*, 1 *id.* 553; *Leroy v. Jamison*, 3 *id.* 369; *U. S. v. Flint*, 4 *id.* 42. *Dent v. Segerson*, 29 Mo. 480; *Fowler v. Duvall*, 11 La. Ann. 561; *Waterman v. Smith*, 13 Cal. 373; *Moore v. Wilkerson*, 13 *id.* 478; *Merritt v. Judd*, 14 *id.* 60; *Mott v. Smith*, 16 *id.* 534; *Johnson v. Van Dyke*, 20 *id.* 225; *McGarraghan v. Maxwell*, 27 *id.* 75; *Seale v. Ford*, 29 *id.* 104. Cir. G. L. O., June 26, 1880.

SEC. 119. It shall be the duty of each surveyor-general, ^{Surveyors-general in New Mexico, &c., to report to Congress on private land claims.} whose respective surveying district includes any portion of the territory embraced, on the twenty-second day of July, eighteen hundred and fifty-four, within the limits of the then Territory of New Mexico, under the instructions of the Secretary of the Interior, to ascertain the origin, nature, character and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico; and for this purpose may issue notices, summons witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the Territory to the United States by the treaty of Guadalupe Hidalgo, of eighteen hundred and forty-eight, denoting the various grades of title, with his decision as to the validity or invalidity of each of the same under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos, respectively, and the nature of their titles to the land. Such report shall be made according to the form which may be prescribed by the Secretary of the Interior, and shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm bona fide grants and give full effect to the treaty of eighteen hundred and forty-eight between the United States and Mexico; and until the final action of Congress on such claims, all lands covered thereby shall be reserved from sale or other disposal by the Government.

10 Stat. 309. *Newhall v. Sanger*, 2 Otto, 761; *Tameling v. Emigration Co.*, 3 *id.* 644; *U. S. v. Clamorgan and Danterive v. U. S.*, 8 C., Oct. T., 1879, in manuscript. 14 Op. Att. Gen. 624. Decisions Sec. Int., Dec. 29, 1862; July 26, 1867; Sept. 6, 1870; July 27, 1871; June 6, 1872; Feb. 21, 1872; March 15, 1872; June 6, 1872; Sept. 2, 1872; Dec. 17, 1872; Feb. 21, 1873; March 21, 1873; March 26, 1873; July 23, 1873; July 31, 1873; Oct. 30, 1873; Feb. 23, 1874; March 17, 1874; June 29, 1874; July 15, 1874; Aug. 15, 1874; Oct. 27, 1874; Dec. 5, 1874; Jan. 23, 1875; March 27, 1875; June 1, 1875; Feb. 4, 1876; April 22, 1876; Aug. 8, 1876; Aug. 12, 1876; Aug. 17, 1876; Dec. 30, 1876; Feb. 7, 1877; Feb. 15, 1877; March 16, 1877; April 15, 1877; June 30, 1877; Nov. 15, 1877; June 12, 1878; July 11, 1878; Aug. 9, 1878; Oct. 24, 1878; May 21, 1879; May 28, 1879; June 9, 1879; June 21, 1879; Aug. 23, 1879; Sept. 20, 1879. Decisions Com. G. L. O., Aug. 18, 1860; June 22, 1870; Dec. 14, 1870; June 17, 1871; Dec. 19, 1871; July 9, 1872; Aug. 13, 1872; Sept. 18, 1874; Nov. 3, 1874; Feb. 12, 1875; June 29, 1875; July 19, 1875; May 13, 1876; May 19, 1876; July 7, 1876; Sept. 19, 1876; Nov. 15, 1876; April 13, 1877; June 22, 1877; June 27, 1877; Feb.

1, 1878; Feb. 21, 1878; April 13, 1878; Nov. 11, 1878; Dec. 2, 1878; March 21, 1879; July 14, 1879; Aug. 14, 1879; Sept. 5, 1879.

Penalty for interrupting surveys.

SEC. 120. Every person who in any manner, by threat or force, interrupts, hinders, or prevents the surveying of the public lands, or of any private land claim which has been or may be confirmed by the United States, by the persons authorized to survey the same, in conformity with the instructions of the Commissioner of the General Land Office, shall be fined not less than fifty dollars nor more than three thousand dollars, and be imprisoned not less than one nor more than three years.

4 Stat. 417; R. S. 2412.

Protection of surveyor by marshal of district.

SEC. 121. Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for the President to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

4 Stat. 417; R. S. 2413.

Surveyors to explore and select timber lands to reserve for use of the Navy.

SEC. 122. The President is authorized to appoint surveyors of public lands, who shall explore such vacant and unappropriated lands of the United States as produce the live-oak and red-cedar timbers, and shall select such tracts or portions thereof, where the principal growth is of either of such timbers, as in the judgment of the Secretary of the Navy may be necessary to furnish for the Navy a sufficient supply of the same. Such surveyors shall report to the President the tracts by them selected, with the boundaries ascertained and accurately designated by actual survey or water-courses.

3 Stat. 347; R. S. 2459. U. S. v. Briggs, 9 How. 351.

Director of geological survey.

SEC. 123. The director of the geological survey shall, under the Interior Department, have the direction of the geological survey and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain.

20 Stat. 394.

CHAPTER FOUR.

LAND DISTRICTS AND OFFICERS.

Sec.	Sec.
124. Land districts.	135. Residence of registers and receivers.
125. When land office may be discontinued by Secretary of the Interior.	136. Bond of registers and receivers.
126. When land office may be continued by Secretary of the Interior.	137. Fees and commissions of registers and receivers.
127. When land office may be annexed to adjacent district by the President.	138. Fees of registers and receivers for consolidated land offices.
128. Change of location of land office by the President.	139. Maximum compensation of registers and receivers.
129. Discontinuance of land offices by the President.	140. Excess of compensation to be paid in Treasury.
130. Change of boundaries of land districts and establishment of additional districts for sale of mineral lands.	141. Illegal fees; penalty.
131. Business of original district in case of change of boundaries.	142. Compensation of registers and receivers; when to commence.
132. Allowance of office rent and clerk hire for consolidated offices.	143. Monthly and quarterly returns of receivers.
133. Appointment of registers and receivers.	144. Oaths administered by registers and receivers.
134. Duration of office of registers and receivers.	145. Penalty for false information.
	146. Deposit of public money.
	147. Where claimant of entry becomes register or receiver.

SEC. 124. The following are the established boundaries of the existing land districts, with the location of the respective land offices, until changed in pursuance of law, namely:

Mathews v. Zane, 5 Cranch, 92; Same case, 7 Wheat. 164; *Hellan v. Ripley*, 3 Rob. (La.) 138.

MISSOURI.

Booneville.

Booneville land district embraces all that part of the State of Missouri which lies north of the line between townships thirty-seven and thirty-eight north, lying west of the line between ranges ten and eleven west and townships thirty-four and thirty-five north of ranges eleven to thirty-three west, inclusive.

Ironton.

The land district of Ironton embraces all that part of the State of Missouri which lies south of the line between townships thirty-seven and thirty-eight north, and east of the line between ranges ten and eleven west of the fifth principal meridian.

Springfield.

The land district of Springfield consists of that portion of the State of Missouri which is situated south of the line between townships thirty-four and thirty-five north, and west of the line between ranges ten and eleven west of the fifth principal meridian.

ALABAMA.

Huntsville.

Huntsville land district includes all that portion of the State of Alabama lying north of Calhoun and Cleburne Counties and north of the line between townships fourteen and fifteen south of the basis meridian of Huntsville, extending from the western boundary of the State to the western boundary of Calhoun County.

Montgomery.

Montgomery land district includes all that portion of the State of Alabama lying south of townships fourteen and fifteen south of the basis meridian of Huntsville, extending from the western boundary of the State to the western boundary of Calhoun County, and south of the northern boundaries of Calhoun and Cleburne Counties.

LOUISIANA.

New Orleans.

The land district of New Orleans comprehends within its limits that portion of the State of Louisiana which lies south of the basis parallel of thirty-first degree of north latitude and that portion thereof lying north of the basis and east of range lines three and four west, townships one to thirteen north, inclusive; and also east of range lines five and six west, extending from township fourteen north to northern boundary of State.

Natchitoches.

This land district occupies the northwestern part of the State of Louisiana, extending from townships one to thirteen north, inclusive, and west of the line between ranges three and four west; and also from township fourteen north to the north boundary of the State, extending from the line between ranges five and six west of the principal meridian to the western boundary of the State of Louisiana.

MISSISSIPPI.

Jackson.

The land district of Jackson is co-extensive with the limits of the State of Mississippi.

MICHIGAN.

Reed City.

Reed City land district includes all that part of the State of Michigan situated west of the following lines: Townships one to four south, inclusive, west of the line between ranges three and four west; townships five to eight south, inclusive, west of the line between ranges four and five west; townships one to ten north, inclusive, west of the principal meridian; townships eleven to thirty-nine north,

inclusive (extending to Lake Huron), west of the line between ranges two and three west, including islands in Lake Michigan and the straits of Mackinac, exclusive of the island of Mackinaw.

East Saginaw.

East Saginaw land district embraces townships six to ten north, inclusive, lying east of the principal meridian and west of the line between ranges eleven and twelve east of said meridian; also townships eleven to twenty-eight north, inclusive, lying east of the line between ranges two and three west of the principal meridian, and west of the line between ranges eleven and twelve east.

Marquette

Land district embraces the whole extent of the northern peninsula of Michigan, including Drummond Island, Isle Royale, and those adjacent to the Big Bay de Noc.

Detroit.

The land district of Detroit includes all that part of the State of Michigan situated east of the following lines of public surveys, viz: Townships one to five north, inclusive, east of the principal meridian; townships six to nineteen north, inclusive, extending east of the line between ranges eleven and twelve east, townships one to four south, inclusive, lying east of the line between ranges three and four west; townships five to nine south, inclusive, extending from the line between ranges four and five west. It also includes that part of the State which lies north of the line between townships twenty-eight and twenty-nine north, and east of the line between ranges two and three west of the principal meridian, and extending to Lake Huron, in the southern peninsula of Michigan, comprehending within its limits the island of Mackinaw.

ARKANSAS.

Dardanelle

Land district is bounded on the east by a line between ranges seventeen and eighteen west of the fifth principal meridian, running north from the base line to the corner common to townships twelve and thirteen north of the base line, on the north by the line between townships twelve and thirteen north, on the west by the western boundary of the State of Arkansas, and on the south by the base line.

Little Rock

Land district is bounded as follows, viz: Beginning on the south boundary of the State of Arkansas where the line between ranges five and six west of the fifth principal meridian intersects the same; thence north on said range line to the corner common to townships ten and eleven south; thence west on the line between townships ten and eleven

south to the line between ranges seventeen and eighteen west; thence north on the said range line to the corner common to townships twelve and thirteen north of the base line; thence east on the line between townships twelve and thirteen north to the line between ranges seven and eight west; thence north along said range line to the north boundary of the State; thence east with the said boundary to the Saint Francis River; thence down said river to the intersection of the thirty-sixth degree of north latitude; thence east along said parallel of north latitude to the Mississippi River; thence down said river to the south boundary of the State of Arkansas; and thence west along said boundary to the point of beginning.

Camden

Land district is bounded on the north by the base line extending from the west boundary of the State of Arkansas to the intersection of the line between ranges seventeen and eighteen west of the fifth principal meridian; thence south with the said range line to the corner common to townships ten and eleven south of the base line; thence east, on the line between townships ten and eleven south, to the intersection of the line between ranges five and six west of the fifth principal meridian; thence south along said range line to the south boundary of the State; thence west with the said boundary to the west boundary of the State; and thence with the west boundary to the place of beginning.

Harrison

Land district comprises all that part of the State of Arkansas which lies north of the line between townships twelve and thirteen north of the base line, and west of the line between ranges seven and eight west of the fifth principal meridian.

FLORIDA.

Gainesville.

The land district of Gainesville is co-extensive with the limits of the State of Florida.

IOWA.

Des Moines.

The land district of Des Moines is co-extensive with the limits of the State of Iowa.

WISCONSIN.

Menasha

Land district embraces eastern part of the State of Wisconsin lying east of the line between ranges eight and nine east, extending from the south boundary of the State to the corner common to townships fourteen and fifteen north; thence east on said township line to the line between ranges eleven and twelve east; thence north along the said range line to the north boundary of the State.

Falls Saint Croix

Land district is bounded on the north by the fourth correction line north of the base line; on the east by the line between ranges eleven and twelve west of the fourth principal meridian; on the south by the Chippewa and Mississippi Rivers, and on the west by the Saint Croix River.

Wausau

Land district embraces all that portion of the State of Wisconsin lying north of the line between townships fourteen and fifteen north of the base line; west of the line between ranges eleven and twelve east of the fourth principal meridian; and east of the line between ranges one and two east of the fourth principal meridian.

La Crosse

Land district is included within the following boundaries, to wit: Beginning on the south boundary of the State of Wisconsin, where the line between ranges eight and nine east of the fourth principal meridian intersects the same; thence north with the said range line to the corner common to townships fourteen and fifteen north of the base line; thence west with said line to the line between ranges one and two east; thence north along said range line to the corner common to townships twenty-four and twenty-five north; thence west on the line between said townships to the line between ranges eleven and twelve west; thence north with said range line to the intersection with the Chippewa River; thence down said river to its mouth; thence down the Mississippi River to the southern boundary of Wisconsin; and thence east along the said boundary to the place of beginning.

Bayfield

Land district embraces all that part of the northwestern corner of the State of Wisconsin lying north of the fourth correction line and west of the line between ranges one and two east of the fourth principal meridian.

Eau Claire

Land district is bounded on the north by the fourth correction line running through ranges one east and one to eleven west of the fourth principal meridian; on the west by the line running south between ranges eleven and twelve west to the corner common to townships twenty-four and twenty-five north of the base line; on the south by the line running east between said townships to the line between ranges one and two east of the fourth principal meridian, and on the east by the said range line extending north to the corner common to townships forty and forty-one north of the base line, to the place of beginning.

CALIFORNIA.

San Francisco

Land district is bounded as follows: Beginning on the Pacific Ocean where the line between townships twenty-four and twenty-five north intersects the ocean, and running thence east with the said township line to the line between ranges ten and eleven west of the Mount Diablo meridian; thence north on said range line to the corner common to townships twenty-five and twenty-six north; thence east between said townships to the line between ranges seven and eight west; thence south on said range line to the corner common to townships nineteen and twenty north; thence east between said townships to the line between ranges six and seven west; thence south on said range line to the corner common to townships sixteen and seventeen north; thence east between said townships to the line between ranges five and six west; thence south along the line between ranges five and six west to the corner common to townships twelve and thirteen north; thence east between said townships to the line between ranges four and five west; thence south on said range line to the corner common to townships nine and ten north; thence east between said townships to the line between ranges three and four west; thence south on said range line to the corner common to townships seven and eight north; thence east on the line between townships seven and eight north to the line between ranges three and four east; thence south on the line between ranges three and four east to the first standard north; thence west along said standard to the line between ranges two and three east; thence south on the line between ranges two and three east to the corner common to townships three and four north; thence west between townships three and four north to the line between ranges one and two east; thence south on line between ranges one and two east to the corner common to townships one and two north; thence east to the line between ranges two and three east; thence north between ranges two and three east to the corner common to townships two and three north; thence east on said township line to the line between ranges four and five east; thence south on the line between ranges four and five east to the corner common to townships one and two south of the Mount Diablo base line; thence east between townships one and two south to the line between ranges five and six east; thence south on said range line to the corner common to townships seven and eight south; thence east on the line between townships seven and eight south to the line between ranges six and seven east; thence south on said range line to the corner common to townships nine and ten south; thence east to the line between ranges seven and eight east; thence south to the corner common to townships ten and eleven south; thence east on line between townships ten and eleven south to the line between ranges eight and nine east; thence south on said range line to the intersection of the third standard south; thence east along said standard to the line between

ranges nine and ten east; thence on said range line to the corner common to townships thirteen and fourteen south; thence east on the line between townships thirteen and fourteen south to the line between ranges ten and eleven east; thence south between ranges ten and eleven east to the corner common to townships fifteen and sixteen south; thence east on the line between townships fifteen and sixteen south to the line between ranges eleven and twelve east; thence south to the fourth standard south; thence east along said standard to the line between ranges twelve and thirteen east; thence south on said range line to the corner common to townships eighteen and nineteen south; thence east along said township line to the line between ranges thirteen and fourteen east; thence south to the fifth standard line south; thence east along said standard line to the line between ranges fourteen and fifteen east; thence south to the corner common to townships twenty-two and twenty-three south; thence east on the line between townships twenty-two and twenty-three south to the line between ranges fifteen and sixteen east; thence south on said range line to the corner common to townships twenty-three and twenty-four south; thence east on said township line to the line between ranges sixteen and seventeen east; thence south on said range line to the corner common to townships twenty-six and twenty-seven south; thence east on said township line to the line between ranges seventeen and eighteen east; thence south between said ranges to the corner common to townships twenty-seven and twenty-eight south; thence east on the line between said townships to the line between ranges eighteen and nineteen east; thence south on said range line to the seventh standard line south of the base line; thence east along said standard line to the line between ranges nineteen and twenty east; thence south on said range line to the corner common to townships twenty-nine and thirty south; thence east on said township line to the line between ranges twenty and twenty-one east; thence south on said range line to the corner common to townships thirty and thirty-one south; thence east on said township line to the line between ranges twenty-one and twenty-two east; thence south on said range line to the corner common to townships thirty-one and thirty-two south; thence east on line between townships thirty-one and thirty-two south to the line between ranges twenty-two and twenty-three east; thence south to the eighth standard line south; thence east along said standard line of the Mount Diablo base line to the line between ranges twenty-three and twenty-four west of the San Bernardino meridian; thence south on said range line to the corner common to townships ten and eleven north of the San Bernardino base line; thence east on line between said townships to the line between ranges twenty and twenty-one west; thence south on said range line to the first standard north of the San Bernardino base line; thence west along said standard line to the Pacific Ocean, and thence northwesterly along the ocean to the place of beginning.

Marysville

Land district includes all that portion of the State of California situated within the following boundaries: Commencing at a point on the fifth standard parallel north, between ranges seven and eight west, of Mount Diablo meridian; thence south with said range line to the line between townships nineteen and twenty north; thence east with said line to the line between ranges six and seven west; thence south with said line to the line between townships sixteen and seventeen north; thence east with said line to the line between ranges five and six west; thence south with said line to the line between townships twelve and thirteen north; thence east with said line to the line between ranges four and five west; thence south with said line to the line between townships nine and ten north; thence east with said line to the line between ranges three and four west; thence south with the said line to the line between townships seven and eight north; thence east with said line to the line between ranges three and four east; thence north with said line to the line between townships eleven and twelve north; thence east with said line to the line between ranges four and five east; thence north with said line to the line between townships twelve and thirteen north; thence east with said line to the line between ranges five and six east; thence north with said line to the line between townships thirteen and fourteen north; thence east with said line to the line between ranges six and seven east; thence north with said line to the line between townships sixteen and seventeen north; thence east with said line to the line between ranges eight and nine east; thence north with said line to the line between townships nineteen and twenty north; thence east with said line to the line between ranges nine and ten east; thence north with said line to the fourth standard parallel north; thence east with said parallel to the line between ranges ten and eleven east; thence north with said line to the line between townships twenty-one and twenty-two north; thence east with said line to the line between ranges eleven and twelve east; thence north with said line to line between townships twenty-three and twenty-four north; thence west with said line to the line between ranges eight and nine east; thence north with said line to the fifth standard parallel north; thence west with said parallel to the line between ranges five and six east; thence north with said line to the line between townships twenty-six and twenty-seven north; thence west with said line to the line between ranges four and five east; thence south with said line to the fifth standard parallel north; thence west on said parallel to the place of beginning.

Humboldt

Land district includes all that portion of the State of California lying west of the line between ranges ten and eleven west of Mount Diablo meridian, and north of the line between townships twenty-four and twenty-five north, Mount Diablo base line.

Stockton

Land district is bounded as follows: Beginning at the north-west corner of township five north, range five east of the Mount Diablo meridian, and running thence east along the first standard north to the line between ranges nine and ten east; thence south to the corner of townships three and four north, ranges nine and ten east; thence east to the line between ranges seventeen and eighteen east; thence north to the corner of townships four and five north, ranges seventeen and eighteen east; thence east to the line between ranges twenty-two and twenty-three east; thence south to the first standard south of the Mount Diablo base line; thence east along said standard line to the line between ranges twenty-six and twenty-seven east; thence south to the third standard south; thence west along said standard to the line between ranges eight and nine east; thence north to the corner of townships ten and eleven south; thence west to the line between ranges seven and eight east; thence north to the corner of townships nine and ten south; thence west to the line between ranges six and seven east; thence north to the corner of townships seven and eight south; thence west to the line between ranges five and six east; thence north to the corner of townships one and two south; thence west to the line between ranges four and five east; and thence north to the place of beginning.

Visalia

Land district is bounded as follows: Beginning at the north-west corner of township thirteen south, range ten east, of the Mount Diablo meridian, running thence east along the third standard parallel south to the line between ranges thirty-two and thirty-three east; thence south with said line to the eighth standard parallel south; thence west along said parallel to the line between ranges twenty-two and twenty-three east; thence north with said line to the line between townships thirty-one and thirty-two south; thence west with said line to the line between ranges twenty-one and twenty-two east; thence north with said line to the line between townships thirty and thirty-one south; thence west with said line to the line between ranges twenty and twenty-one east; thence north with said line to the line between townships twenty-nine and thirty south; thence west with said line to the line between ranges nineteen and twenty east; thence north with said line to the seventh standard parallel south; thence west with said parallel to the line between ranges eighteen and nineteen east; thence north with said line to the line between townships twenty-seven and twenty-eight south; thence west with said line to the line between ranges seventeen and eighteen east; thence north with said line to the line between townships twenty-six and twenty-seven south; thence west with said line to the line between ranges sixteen and seventeen east; thence north with said line to the line between townships twenty-three and twenty-four south; thence west with said

line to the line between ranges fifteen and sixteen east; thence north with said line to the line between townships twenty-two and twenty-three south; thence west with said line to the line between ranges fourteen and fifteen east; thence north with said line to the fifth standard parallel south; thence west along said parallel to the line between ranges thirteen and fourteen east; thence north with said line to the line between townships eighteen and nineteen south; thence west with said line to the line between ranges twelve and thirteen east; thence north with said line to the fourth standard parallel south; thence west along said parallel to the line between ranges eleven and twelve east; thence north with said line to the line between townships fifteen and sixteen south; thence west with said line to the line between ranges ten and eleven east; thence north with said line to the line between townships thirteen and fourteen south; thence west with said line to the line between ranges nine and ten east; thence north with said line to the place of beginning.

Sacramento

Land district includes all that portion of the State of California situated within the following described boundaries: Commencing at a point where the northern boundary of township nineteen north, Mount Diablo base line, intersects the eastern boundary of the State of California; thence west along said township line to the line between ranges thirteen and fourteen east; thence north with said line to the line between townships twenty-one and twenty-two north; thence west with said line to the line between ranges ten and eleven east; thence south with said line to the fourth standard parallel north; thence west with said standard to the line between ranges nine and ten east; thence south with said line to the line between townships nineteen and twenty north; thence west with said line to the line between ranges eight and nine east; thence south with said line to the line between townships sixteen and seventeen north; thence west with said line to the line between ranges six and seven east; thence south with said line to the line between townships thirteen and fourteen north; thence west with said line to the line between ranges five and six east; thence south with said line to the line between townships twelve and thirteen north; thence west with said line to the line between ranges four and five east; thence south with said line to the line between townships eleven and twelve north; thence west with said line to the line between ranges three and four east; thence south with said line to the first standard parallel north; thence west with said parallel to the line between ranges two and three east; thence south with said line to the line between townships three and four north; thence west with said line to the line between ranges one and two east; thence south with said line to the line between townships one and two north; thence east with said line to the line between ranges two and three east; thence north with said line to

the line between townships two and three north; thence east with said line to the line between ranges four and five east; thence north with said line to the first standard parallel north; thence east along said parallel to the line between ranges nine and ten east; thence south with said line to the line between townships three and four north; thence east with said line to the line between ranges seventeen and eighteen east; thence north with said line to the line between townships four and five north; thence east with said line to the line between ranges twenty-two and twenty-three east; thence north with said line to the intersection of the eastern boundary of California; thence northwesterly with the eastern boundary of California to the intersection of the boundary with the thirty-ninth parallel of north latitude; thence north with said eastern boundary to the place of beginning.

Bodie

Land district includes all that portion of the State of California situated within the following boundaries: Commencing at a point on the eastern boundary of the State of California, where the line between ranges twenty-two and twenty-three east, Mount Diablo meridian, intersects said boundary; thence south with said range line to the first standard parallel south; thence east along said parallel to the line between ranges twenty-six and twenty-seven east; thence south with said line to the intersection of the third standard parallel south; thence east along said parallel to the line between ranges thirty-two and thirty-three east; thence south with said range line to the intersection of the eighth standard parallel south; thence east with said parallel to the intersection of the San Bernardino meridian; thence south to the corner of townships eleven and twelve north of San Bernardino base line; thence east to the intersection of the eastern boundary of the State of California; thence northwesterly with said boundary to the place of beginning.

Los Angeles

Land district is bounded as follows: Beginning at a point of the intersection of the first standard north of the San Bernardino base line with the Pacific Ocean; thence east along said standard line to the line between ranges twenty and twenty-one west of the San Bernardino meridian; thence north to the corner of townships ten and eleven north; thence west to the line between ranges twenty-three and twenty-four west; thence north with said range line to the intersection of the eighth standard line south of the Mount Diablo base line; thence east with said standard line to the intersection of the San Bernardino meridian; thence south to the corner of townships eleven and twelve north of San Bernardino base line; thence east to the intersection of the eastern boundary of the State of California; thence in a southeasterly direction with said boundary to the intersection of the Colorado River of the West; thence

down said river to the intersection of the boundary between the United States and Mexico; thence southwesterly with said boundary to the Pacific Ocean; and thence in a northwesterly direction along the ocean to the place of beginning.

Shasta

Land district is bounded as follows: Beginning on the northern boundary of the State of California, where the line between ranges ten and eleven west of the Mount Diablo meridian intersects said boundary; thence east with said boundary to the intersection of the line between ranges five and six east; thence south on said range line to the corner of townships thirty and thirty-one north; thence west to the line between ranges four and five east; thence south to the fifth standard north of the Mount Diablo base line; thence west along said standard line to the line between ranges ten and eleven west; and thence north with said range line to the north boundary of the State, the point of beginning.

Susanville

Land district is bounded as follows: Beginning at a point where the north boundary of township nineteen north, Mount Diablo base line, intersects the eastern boundary of the State of California; thence west on the north boundary of township nineteen north to the corner of townships nineteen and twenty north, ranges thirteen and fourteen east; thence north to the corner of townships twenty-one and twenty-two north, ranges thirteen and fourteen east; thence west to the corner of townships twenty-one and twenty-two north, ranges eleven and twelve east; thence north to the corner of townships twenty-three and twenty-four north, ranges eleven and twelve east; thence west to the corner of townships twenty-three and twenty-four north, ranges eight and nine east; thence north to the corner of townships twenty-five and twenty-six north, ranges eight and nine east; thence west to the corner of townships twenty-five and twenty-six north, ranges five and six east; thence north between ranges five and six east to the corner of townships twenty-six and twenty-seven north, ranges five and six east; thence west to the corner of townships twenty-six and twenty-seven north, ranges four and five east; thence north to the corner of townships thirty and thirty-one north, ranges four and five east; thence east to the corner of townships thirty and thirty-one north, ranges five and six east; thence north along said range line to the northern boundary of the State of California; thence east with the said boundary to the intersection of the eastern boundary of the State; and thence south along the eastern boundary to the place of beginning.

NEVADA.

Carson

Land district includes all that portion of the State of Nevada situated within the following described boundaries: Com-

mencing at the northwest corner of the State of Nevada; thence east with the north boundary of the State to the intersection of the line between ranges forty-four and forty-five east of the Mount Diablo meridian; thence south on said range line to the corner of townships twenty-four and twenty-five north of the Mount Diablo base line; thence west to the line between ranges thirty-nine and forty east; thence south along said range line to the eastern boundary of California; thence northwesterly with the eastern boundary of California to the intersection of the boundary with the thirty-ninth parallel of north latitude; thence north with the eastern boundary of California to the place of beginning.

Eureka

Land district includes all that portion of the State of Nevada lying south and east of the following described boundaries: Beginning at the northeast corner of the State of Nevada; thence west with the north boundary of the State to the intersection of the line between ranges forty-four and forty-five east of the Mount Diablo meridian; thence south on said range line to the corner of townships twenty-four and twenty-five north of the Mount Diablo base line; thence west to the line between ranges thirty-nine and forty east; thence south along said range line to the eastern boundary of the State of California.

WASHINGTON TERRITORY.

Olympia

Land district is bounded as follows: Beginning on the boundary line between the United States and the British possessions, and on the summit of the Cascade Mountains, at the nearest range line to the east line of range twelve east of the Willamette meridian; thence south on the nearest range lines on the summit of said mountains to the line dividing townships ten and eleven north of the base line; thence west to the line dividing ranges six and seven west; thence north on said range line to the third standard parallel; thence west to Shoal Water Bay; thence with the Shoal Water Bay to the Pacific Ocean; thence northwesterly with the ocean to the Strait of Juan de Fuca; and thence along the boundary line between the United States and British possessions, running through the said strait and that of De Harro, to the intersection of the forty-ninth parallel of north latitude; and thence due east along said parallel to the place of beginning.

Walla-Walla

Land district includes all that portion of Washington Territory situated within the following described boundaries: Commencing at the southeast corner of the Territory of Washington at a point where the forty-sixth parallel of north latitude crosses the Snake River; thence west along said parallel to the Columbia River; thence down the Columbia River to the intersection of range line nineteen and twenty

east of Willamette meridian; thence north on said range line to the line between townships six and seven north; thence east with said line to the line between ranges twenty-seven and twenty-eight east; thence north with said line to the line between townships sixteen and seventeen north; thence east with said line to the Columbia guide meridian; thence south with said meridian to the line between townships twelve and thirteen north; thence east with said line to its intersection with Snake River; thence up Snake River to its intersection with the eastern boundary of Washington Territory; thence continuing up Snake River to the place of beginning.

Colfax.

Colfax land district includes all that portion of Washington Territory situated within the following described boundaries: Commencing at a point where the Columbia guide meridian intersects the third standard parallel in said Territory; thence east along the line of said standard parallel to where the same intersects the Snake River; thence up said Snake River to where the same intersects the boundary line between Washington and Idaho Territory; thence north on said boundary line to where the same intersects the boundary line between Washington Territory and British Columbia; thence west along said line to where the same intersects the aforementioned Columbia guide meridian; thence south along the line of said meridian to the place of beginning.

Yakima

Land district is bounded by a line commencing at a point of the intersection of the line between townships six and seven north, and between ranges twenty-seven and twenty-eight east of the Willamette meridian; and running westerly along said line between townships six and seven north to the summit of the Cascade Mountains; thence northerly along said summit to the boundary line between the United States and British Columbia; thence east along said line to the Columbia guide meridian; thence south on said meridian to the line between townships sixteen and seventeen north; thence west along said line to the line between ranges twenty-seven and twenty-eight east; thence south along said line to the place of beginning.

Vancouver

Land district includes all that portion of Washington Territory situated within the following described boundaries: Commencing at a point where the line between townships twelve and thirteen north intersects Shoal Water Bay; thence with the Shoal Water Bay, including any islands therein, to the Pacific Ocean; thence southerly with the ocean to the mouth of Columbia River; thence up the river to the point opposite the line between ranges nineteen and twenty east of the Willamette meridian; thence north with said range line to the corner common to townships six and seven north; thence west with said line to the summit of

the Cascade Mountains; thence northerly along said summit to the line between townships ten and eleven north; thence west along said line to the line between ranges six and seven west; thence north on said line to the intersection of the third standard parallel north; thence west with said standard parallel to the place of beginning.

MINNESOTA.

Taylor's Falls

Land district is bounded as follows: Beginning at a point where the northern boundary of township forty-five north of the base line and fourth principal meridian intersects the boundary between the States of Minnesota and Wisconsin; thence south along said boundary to the intersection of the Saint Croix River; thence down with said river to its mouth; thence up the Mississippi River to the intersection of the line between ranges twenty-seven and twenty-eight west of the fourth principal meridian with said river; thence north with said range line to the corner of townships forty-five and forty-six north; and thence east to the place of beginning.

Saint Cloud

Land district is bounded as follows: Beginning at a point of intersection of the fifth standard parallel north of the base line with the line between ranges thirty-five and thirty-six west of the fifth principal meridian; thence north with the said range line to the boundary line between the United States and British possessions; thence east and southeasterly along said boundary to the intersection of the line between ranges twenty-three and twenty-four west of the fourth principal meridian; thence south with said range line to the corner of townships forty-five and forty-six north; thence west to the line between ranges twenty-seven and twenty-eight west; thence south with said range line to the Mississippi River; thence up the river to the intersection of the line between ranges twenty-four and twenty-five west of the fifth principal meridian with said river; thence south on the line between ranges twenty-four and twenty-five west to the intersection of the fifth standard parallel north; thence west with said standard parallel to the place of beginning.

Du Luth

Land district is bounded as follows: Commencing at a corner common to townships forty-five and forty-six north, ranges twenty-three and twenty-four west of the fourth principal meridian; thence north with said range line to the intersection of the boundary line between the United States and the British possessions; thence eastwardly with said boundary to Lake Superior; thence southwesterly with said lake to the mouth of Saint Louis River; thence up said river to the intersection of the boundary line between Wisconsin and Minnesota; thence south along said boundary line to the intersection of the line between townships forty-five and forty-six north; and thence west between townships forty-five and forty-six north to the place of beginning.

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Fergus Falls

Land district is bounded as follows: On the east by the line between ranges thirty-five and thirty-six west of the fifth principal meridian; on the north by the ninth standard parallel north of the base line; on the south by the sixth standard parallel north; and on the west by the western boundary of the State of Minnesota.

Worthington.

Root River land district is bounded on the south by the boundary line between the States of Iowa and Minnesota; on the west by the western boundary of the State of Minnesota; on the north by the line between townships one hundred and five and one hundred and six north; and on the east by the Mississippi River.

Tracy.

Winona land district is bounded on the north by the line between townships one hundred and ten and one hundred and eleven north; on the south by the line between townships one hundred and five and one hundred and six north of the base line; on the east by the Mississippi River; and on the west by the western boundary of the State of Minnesota.

Benson

Land district is bounded as follows: Beginning on the Mississippi River at a point of the intersection of the south boundary of township twenty-seven north of the base line fourth principal meridian with said river; thence west on said township line to the southwest corner of township twenty-seven north, range twenty-four west of the fourth principal meridian; thence north to the intersection of the line between townships one hundred and fifteen and one hundred and sixteen north; thence west with said township line to the western boundary of Minnesota; thence north with the western boundary of the State of Minnesota to the intersection of the said boundary with the sixth standard parallel north; thence east with said standard parallel to the intersection of the line between ranges thirty-five and thirty-six west of the fifth principal meridian; thence south along said range line to the intersection of the fifth standard parallel north; thence east with the said standard parallel to the third guide meridian west of the fifth principal meridian; thence north with said third guide meridian to the Mississippi River; thence down the Mississippi River to the place of beginning.

Redwood Falls

Land district is bounded on the south by the line between townships one hundred and ten and one hundred and eleven north; on the west by the western boundary of the State of Minnesota; on the north by the line between townships one hundred and fifteen and one hundred and sixteen north,

extending east from the western boundary of the State of Minnesota to the intersection of the western boundary of township twenty-seven north, range twenty-four west of the fourth principal meridian; thence south with said west boundary of township twenty-seven north to the southwest corner thereof; thence east with the south boundary of township twenty-seven north to the Mississippi River; thence down the Mississippi River to the intersection of the line between townships one hundred and ten and one hundred and eleven north of the base line.

Crookston

Land district embraces all that part of the State of Minnesota which lies north of township number one hundred and thirty-six north and west of range number thirty-five west of the fifth principal meridian.

OREGON.

Oregon City

Land district includes all that portion of the State of Oregon situated within the following boundaries: Commencing at the mouth of the Alsea River; thence easterly with said river to its intersection with the third standard parallel south between townships thirteen and fourteen south; thence east with said parallel to the line between ranges eight and nine east of Willamette meridian; thence north with said range line to Columbia River; thence down said river to the Pacific Ocean; thence with the ocean to the place of beginning.

Roseburgh

Land district includes all that portion of the State of Oregon situated within the following boundaries: Beginning on the southern boundary of the State of Oregon where the line between ranges five and six east of the Willamette meridian intersects said boundary; thence north with said range line to the fourth standard parallel south between townships eighteen and nineteen south; thence east with said parallel to the line between ranges eight and nine east; thence north with said range line to the third standard parallel south between townships thirteen and fourteen south; thence west with said parallel to its intersection with Alsea River; thence with said river to the Pacific Ocean; and thence along the ocean to the south boundary of Oregon; thence east with said south boundary of Oregon to the place of beginning.

Lake View

Land district includes all that portion of the State of Oregon lying south of the fourth standard parallel south, between townships eighteen and nineteen south, and east of the meridian line between ranges five and six east of the Willamette meridian.

Le Grand

Land district includes all that portion of the State of Oregon lying north of the fourth standard parallel south, between townships eighteen and nineteen south, and east of the meridian line between ranges twenty-six and twenty-seven east.

Dalles.

The Dalles land district includes all that portion of the State of Oregon situated within the following boundaries: Commencing at a point on the Columbia River where the line between ranges eight and nine east of Willamette meridian intersects said river; thence south on said range line to the fourth standard parallel south, between townships eighteen and nineteen south; thence east on said parallel to the line between ranges twenty-six and twenty-seven east; thence north on said range line to the Columbia River; thence down said river to the place of beginning.

KANSAS.

The northern land district includes all that portion of the State of Kansas lying west of the third guide meridian west of the sixth principal meridian and north of the line between townships nine and ten south.

Topeka

Land district is bounded on the north by the boundary line between the States of Kansas and Nebraska; on the east by the Missouri River and the boundary line between the States of Arkansas and Missouri; on the south by the line between townships twenty-two and twenty-three south of the base line; and on the west by first guide meridian east of the sixth principal meridian.

Independence

Land district is bounded on the north by the line between townships twenty-two and twenty-three south of the base line; on the east by the western boundary of the State of Missouri; on the south by the south boundary of the State of Kansas; and on the west by the first guide meridian east of the sixth principal meridian.

Concordia.

Republican land district is bounded on the east by the first guide meridian east of the sixth principal meridian; on the south by the second standard parallel south of the base line; on the west by the first guide meridian west; and on the north by the boundary line between the States of Kansas and Nebraska.

Wichita

Land district includes all that portion of the State of Kansas situated within the following described limits: Begin-

ning at a point on the southern boundary of the State of Kansas where the range line ten and eleven west sixth principal meridian intersects the same; thence north with said range line to the line between townships twenty-one and twenty-two south; thence east with said line to the line between ranges five and six west; thence north with said line to the fourth standard parallel south; thence east with said standard parallel to the first guide meridian east; thence south with said guide meridian to the southern boundary of the State of Kansas; thence west with said boundary to the place of beginning.

Salina

Land district includes all that portion of the State of Kansas situated within the following described boundaries: Commencing at a corner common to the fourth standard parallel south and the first guide meridian east of the sixth principal meridian; thence west with said standard parallel to the line between ranges five and six west; thence north with said line to the line between townships seventeen and eighteen south; thence west with said line to the line between ranges ten and eleven west; thence north with said line to the third standard parallel south; thence west along said standard parallel to the line between ranges fifteen and sixteen west; thence north with said line to the second standard parallel south; thence east along said standard parallel to the first guide meridian east; thence south with said guide meridian to the place of beginning.

Wa Keeney.

The western land district includes all that portion of the State of Kansas situated within the following described boundaries: Commencing at a point on the western boundary of the State of Kansas where the fourth standard parallel south intersects the same; thence east with said standard parallel to the line between ranges twenty and twenty-one west of the sixth principal meridian; thence north with said line to the line between townships nineteen and twenty south; thence east with said line to the line between ranges fifteen and sixteen west; thence north with said line to the line between townships nine and ten south; thence west with said line to the western boundary of the State of Kansas; thence south with said boundary to the place of beginning.

Larned.

The Arkansas Valley land district includes all that portion of the State of Kansas situated within the following described boundaries: Commencing at a point on the western boundary of the State of Kansas where the fourth standard parallel south intersects the same; thence east with said standard parallel to the line between ranges twenty and twenty-one west; thence north with said line to the line between townships nineteen and twenty south;

thence east with said line to the line between ranges fifteen and sixteen west; thence north with said line to the third standard parallel south; thence east with said standard parallel to the line between ranges ten and eleven west; thence south with said line to the line between townships seventeen and eighteen south; thence east with said line to the line between ranges five and six west; thence south with said line to the line between townships twenty-one and twenty-two south; thence west with said line to the line between ranges ten and eleven west; thence south with said line to the southern boundary of the State of Kansas; thence west with said boundary to the western boundary of the State; thence north with said boundary to the place of beginning.

Kirwin.

The northwestern land district includes all that portion of the State of Kansas situated within the following described boundaries: Commencing at a point on the northern boundary of the State of Kansas where the range line eight and nine west sixth principal meridian intersects the same; thence south with said range line to the second standard parallel south; thence west with said second standard parallel to the line between ranges fifteen and sixteen west; thence north with said line to the line between townships nine and ten south; thence west with said line to the third guide meridian west; thence north with said guide meridian to the northern boundary of the State of Kansas; thence east with said boundary to the place of beginning.

NEBRASKA.

Grand Island

Land district is bounded as follows: Commencing at the corner common to townships twenty and twenty-one north of the base line, ranges four and five east of the sixth principal meridian; thence south with said range line to the south shore of Platte River; thence west with said south shore of Platte River to the intersection of range line twenty and twenty-one west; thence north with said line to the line between townships twenty-three and twenty-four north; thence east with said line to the line between ranges eleven and twelve west; thence south with said line to the line between townships twenty and twenty-one north; thence east with said line to the place of beginning.

Beatrice.

Nemaha land district is bounded on the north by the line between townships six and seven north of the base line; on the west by the line between ranges eight and nine west of the sixth principal meridian; on the south by the boundary line between Kansas and Nebraska; and on the east by the Missouri River.

Lincoln.

South Platte district is bounded on the south by the line between townships six and seven north of the base line; on the west by the line between ranges eight and nine west of the sixth principal meridian; on the north by the south shore or right bank of Platte River; and on the east by the Missouri River.

Bloomington.

The Republican Valley land district is bounded as follows: Commencing at a point on the southern boundary of Nebraska where the range line eight and nine west, sixth principal meridian, intersects said boundary; thence north with said range line to the south shore of Platte River; thence west with said south shore of Platte River to the line between ranges twenty and twenty-one west; thence south with said line to the line between townships six and seven north; thence west with said line to the line between ranges twenty-five and twenty-six west; thence south with said range line to the southern boundary of the State of Nebraska; thence east with said boundary to the place of beginning.

North Platte.

The western land district includes all that portion of the State of Nebraska situated within the following described boundaries: Commencing at a point on the southern boundary of the State of Nebraska where the range line twenty-five and twenty-six west, sixth principal meridian, intersects said boundary; thence north with said range line to the line between townships six and seven north; thence east with said line to the line between ranges twenty and twenty-one west; thence north with said range line to the northern boundary of the State of Nebraska; thence west with said northern boundary to the eastern boundary of Wyoming; thence south with said boundary to the southern boundary of Colorado; thence east with said boundary to the eastern boundary of Colorado; thence south with said boundary to the southern boundary of Nebraska; thence east with said boundary to the place of beginning.

Niobrara.

Dakota land district includes all that portion of the State of Nebraska situated within the following described boundaries: Commencing at a point on the Missouri River where the south line of the Omaha Indian reservation intersects said river; thence west with said south line to the western boundary of said Indian reservation; thence north along said western boundary to the south line of township twenty-six north; thence west along said line to the line between ranges eleven and twelve west of the sixth principal meridian; thence south with said line to the line between townships twenty-three and twenty-four north; thence west with said line to the line between ranges twenty and twenty-one west; thence north with said line to the northern boundary

of the State of Nebraska; thence east and south along the northern and eastern boundary of the State to the place of beginning.

Norfolk.

The Omaha land district is bounded as follows: Commencing at the confluence of the Platte River with the Missouri; thence up the Missouri River to the intersection of the south line of the Omaha Indian reservation; thence along said south line to the western boundary of said Indian reservation; thence north along said western boundary to the south line of township twenty-six north; thence west along said line to the line between ranges eleven and twelve west of the sixth principal meridian; thence south with said line to the line between townships twenty and twenty-one north; thence east along said line to the line between ranges four and five east; thence south with said line to the south shore of Platte River; thence down said river to the place of beginning.

NEW MEXICO.

Santa Fé

Land district includes all that portion of the Territory of New Mexico lying north of the base line.

Mesilla

Land district includes all that portion of the Territory of New Mexico lying south of the base line.

IDAHO.

Boise City

Land district embraces all that portion of Idaho Territory lying west of range line twenty-three and twenty-four west, Boise meridian, extending from the southern boundary of Utah to the southern boundary of Lemhi County; west of the western boundary of Lemhi County, and south of the Salmon River range of mountains.

Lewiston

Land district consists of all that portion of the Territory of Idaho lying north of the Salmon River range of mountains.

Oxford.

The Oneida land district includes all that portion of Idaho Territory situated within the following described boundaries: Commencing at the southeast corner of said Territory; thence west on the line between said Territory and the Territory of Utah to the line between ranges numbered twenty-three and twenty-four east, Boise meridian; thence north to the southern boundary of Lemhi County; thence west to the western line of said Lemhi County; thence north on said western line of said county to the line between the Territories of Idaho and Montana; thence easterly on said Territorial line to the eastern boundary of

the Territory of Idaho; thence south on the line of the eastern boundary of Idaho Territory to the place of beginning.

MONTANA.

Miles City

Land district comprises all that portion of Montana Territory lying east of range line twenty-seven and twenty-eight east of the principal meridian.

Bozeman

Land district comprises all that portion of Montana Territory lying south of the first standard parallel north, west of range line twenty-seven and twenty-eight east of the principal meridian, and east of range line two and three west of principal meridian.

Helena

Land district comprises all that portion of the Territory of Montana lying west of range line two and three west, extending from the southern boundary of the Territory to the first standard parallel north; north of the first standard parallel north, extending from range two and three west to range twenty-seven and twenty-eight east of the principal meridian; and west of range line twenty-seven and twenty-eight east, extending from the first standard parallel north to the boundary line between Montana and British possessions.

UTAH.

Salt Lake City

Land district is co-extensive with the limits of the Territory of Utah.

WYOMING.

Evanston

Land district includes all that portion of Wyoming Territory lying west of range line ninety-four and ninety-five west of the sixth principal meridian.

Cheyenne

Land district includes all that portion of Wyoming Territory lying east of range line ninety-four and ninety-five west of the sixth principal meridian.

ARIZONA.

Florence.

Gila land district comprises all that portion of the Territory of Arizona lying south of the first standard parallel north.

Prescott

Land district comprises all that portion of the Territory of Arizona lying north of the first standard parallel north.

COLORADO.

Denver

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the eastern boundary of the State of Colorado where the second correction line south, sixth principal meridian, intersects said boundary; thence west with said correction line to the line between ranges seventy and seventy-one west; thence north with said line to the line between townships three and four north; thence west with said line to the summit of the continental divide; thence with said summit of the continental divide to the northern boundary of the State; thence east with said boundary line to the eastern boundary of the State; thence south with said boundary line to the place of beginning.

Central City

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the western boundary of the State of Colorado where the first correction line south intersects said boundary; thence east with said correction line to the line between ranges seventy-one and seventy-two west, sixth principal meridian; thence south on said line to the second correction line south; thence east on said correction line to the line between ranges seventy and seventy-one west; thence north on said line to the line between townships three and four north; thence west with said line to the summit of the continental divide; thence along said summit of the continental divide to the northern boundary of the State; thence west with said boundary line to the western boundary of the State; thence south with said boundary line to the place of beginning.

Del Norte

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the south boundary of the State of Colorado where range line sixty-nine and seventy west, sixth principal meridian, intersects the said boundary; thence north with said range line to the line between townships twenty-seven and twenty-eight south; thence west with said line to the west line of range seventy-three west; thence north on said line to the intersection of township line forty-five and forty-six north, New Mexico principal meridian; thence west with said line to the line between ranges eleven and twelve east, New Mexico principal meridian; thence north with said line to the line between townships forty-six and forty-seven north; thence west with said line to the line between ranges ten and eleven east; thence north with said line to the line between townships forty-seven and forty-eight north; thence west with said line to the first New Mexico guide meridian east; thence north with said guide meridian to the twelfth correction line north; thence west with said

correction line to the New Mexico principal meridian; thence south with said principal meridian to the ninth correction line north; thence west with said correction line to the line between ranges four and five west; thence south on said range line to the south boundary of the State; thence east with said boundary to the place of beginning.

Leadville

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the western boundary of Colorado where the first correction line south intersects said boundary; thence east with said correction line to the line between ranges seventy-one and seventy-two west, sixth principal meridian; thence south with said line to the second correction line south; thence east with said correction line to the line between ranges seventy and seventy-one west; thence south with said line to the third correction line south; thence west with said correction line to the intersection of range line ten and eleven east, township fifty-one north, New Mexico principal meridian; thence south with said line to the line between townships forty-nine and fifty north; thence west with said line to the line between ranges nine and ten east; thence south with said line to the twelfth correction line north; thence west with said correction line to the line between ranges six and seven east; thence north with said line to the line between townships forty-nine and fifty north; thence west with said line to the line between ranges five and six east; thence north with said line to the line between townships fifty and fifty-one north; thence west with said line to the line between ranges four and five east; thence north with said line to the intersection of the third correction line south, sixth principal meridian; thence west with said correction line to the west boundary of the State; thence north with said boundary to the place of beginning.

Lake City

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the western boundary of Colorado where the third correction line south, sixth principal meridian, intersects said boundary; thence east with said correction line to the intersection of range line four and five east, township fifty-one north, New Mexico principal meridian; thence south with said range line to the line between townships fifty and fifty-one north; thence east with said line to the line between ranges five and six east; thence south with said line to the line between townships forty-nine and fifty north; thence east with said line to the line between ranges six and seven east; thence south with said line to the twelfth correction line north; thence west with said correction line to the New Mexico principal meridian; thence south with said principal meridian to the ninth correction line north; thence west with said correction line to the line between ranges four

and five west; thence south with said range line to the south boundary of the State; thence west with said boundary to the western boundary of the State; thence north with said boundary to the place of beginning.

Pueblo

Land district includes all that portion of the State of Colorado situated within the following described limits: Commencing at a point on the eastern boundary of Colorado where the second correction line south intersects said boundary; thence west with said correction line to the line between ranges seventy and seventy-one west, sixth principal meridian; thence south with said range line to the third correction line south; thence west with said correction line to the intersection of range line ten and eleven east, township fifty-one north, New Mexico principal meridian; thence south with said line to the line between townships forty-nine and fifty north; thence west with said line to the line between ranges nine and ten east; thence south with said line to the twelfth correction line north; thence west with said correction line to the first New Mexico guide meridian east; thence south with said guide meridian to the line between townships forty-seven and forty-eight north; thence east with said line to the line between ranges ten and eleven east; thence south with said line to the line between townships forty-six and forty-seven north; thence east with said line to the line between ranges eleven and twelve east; thence south with said line to the line between townships forty-five and forty-six north; thence east with said line to the intersection of the west line of range seventy-three west, sixth principal meridian; thence south with said line to the line between townships twenty-seven and twenty-eight south; thence east with said line to the line between ranges sixty-nine and seventy west; thence south with said range line to the southern boundary of the State; thence east on said boundary to the eastern boundary of the State; thence north on said boundary to the place of beginning.

DAKOTA.

Bismarck

Land district includes all that portion of the Territory of Dakota situated within the following described boundaries: Commencing at a point on the western boundary of Dakota where the seventh standard parallel north, fifth principal meridian, intersects said boundary; thence east on said standard parallel to the line between ranges seventy-eight and seventy-nine west; thence north on said line to the line between townships one hundred and twenty-nine and one hundred and thirty north; thence east on said line to the ninth guide meridian; thence north on said guide meridian to the twelfth standard parallel north; thence west with said standard to the tenth guide meridian; thence north on said guide meridian to the boundary line between Dakota and the British possessions; thence west with said line

to the western boundary of Dakota; thence south with said western boundary to the place of beginning.

Fargo

Land district includes all that portion of the Territory of Dakota lying north of township line between townships one hundred and twenty-nine and one hundred and thirty of the fifth principal meridian, south of the twelfth standard parallel, and east of the ninth guide meridian.

Springfield.

The Springfield land district includes all that portion of the Territory of Dakota lying between the third standard parallel north and the township line between townships one hundred and twenty-nine and one hundred and thirty north of the fifth principal meridian and east of the eastern boundary of the Great Sioux Indian Reservation.

Mitchell.

Sioux Falls land district includes all that portion of the Territory of Dakota lying between the third standard parallel north and the base line, and east of the eastern boundary of the Great Sioux Indian Reservation.

Yankton.

The Yankton land district includes all that portion of the Territory of Dakota lying south of the base line of the fifth principal meridian.

Grand Forks

Land district includes all that portion of the Territory of Dakota lying north of the twelfth standard parallel and east of the tenth guide meridian, fifth principal meridian.

Deadwood

Land district includes all that portion of the Territory of Dakota lying west of the one hundred and second meridian of longitude and south of the forty-fifth parallel of north latitude.

SEC. 125. Whenever the quantity of public land remaining unsold in any land district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Secretary of the Interior to discontinue the land office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land office, the same shall be subject to sale at some one of the existing land offices most convenient to the district in which the land office has been discontinued, of which the Secretary of the Interior shall give notice.

5 Stat. 385; R. S. 2248.

SEC. 126. The Secretary of the Interior may continue any land district in which is situated the seat of government of any one of the States, and may continue the land office in such district, notwithstanding the quantity of land unsold

When land office may be discontinued by Secretary of the Interior.

When land office may be continued by Secretary of the Interior.

in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land system in such State.

5 Stat. 455; R. S. 2249.

When land office may be annexed to adjacent district by the President.

SEC. 127. Whenever the cost of collecting the revenue from the sales of the public lands in any land district is as much as one-third of the whole amount of revenue collected in such district, it may be lawful for the President, if, in his opinion, not incompatible with the public interest, to discontinue the land office in such district, and to annex the same to some other adjoining land district.

10 Stat. 189, 194; R. S. 2250.

Change of location of land office by the President.

SEC. 128. The President is authorized to change the location of the land offices in the several land districts established by law, and to relocate the same from time to time at such point in the district as he deems expedient.

10 Stat. 204, 244; R. S. 2251.

Discontinuance of land offices by the President.

SEC. 129. Upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land office and the transfer of any of its business and archives to any other land office within the same State or Territory.

12 Stat. 409; R. S. 2252.

Change of boundaries of land districts and establishment of additional districts for sale of mineral lands.

SEC. 130. The President is authorized to change and re-establish the boundaries of land districts, whenever, in his opinion, the public interests will be subserved thereby, without authority to increase the number of land offices or land districts, except that he is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, whenever he may deem the same necessary for the public convenience in executing the provisions of the mineral laws..

14 Stat. 252; 16 *id.* 171; R. S. 2253, 2343.

Business for original district in case of change of boundaries.

SEC. 131. In case of the division of existing land districts by the erection of new ones, or by a change of boundaries by the President, all business in such original districts shall be entertained and transacted without prejudice or change, until the offices in the new districts are duly opened by public announcement under the direction of the Secretary of the Interior. All sales or disposals of the public lands heretofore regularly made at any land office, after such lands have been made part of another district by any act of Congress, or by any act of the President, are confirmed, provided the same are free from conflict with prior valid rights.

17 Stat. 192; R. S. 2254.

Allowance of office rent and clerk hire for consolidated land offices.

SEC. 132. The Secretary of the Interior is authorized to make a reasonable allowance for office rent for each consolidated land office; and when satisfied of the necessity therefor, to approve the employment by the register of one or more clerks, at a reasonable per-diem compensation, for such time as such clerical force is absolutely required to

keep up the current public business, which clerical force shall be paid out of the surplus fees authorized to be charged by section one hundred and thirty-eight, if any; and if no surplus exists, then out of the appropriation for incidental expenses of district land offices; but no clerk shall be so paid unless his employment has been first sanctioned by the Secretary of the Interior.

12 Stat. 131; R. S. 2255. *U. S. v. Jarvis*, 1 Davies, C. C. 274; *U. S. v. Lowe*, 1 Dillon, C. C. 585. 1 Lester's L. L. 314.

SEC. 133. There shall be appointed by the President, by ^{Appointment of registers and receivers.} and with the advice and consent of the Senate, a register of the land office and a receiver of public moneys, for each land district established by law.

18 Stat. 34, 122, 123, 295; R. S. 2234. *Litchfield v. Railway Co.*, 1 Woolw. C. C. 299. *Bullock v. Wilson*, 5 Port. (Ala.) 335; *Hellan v. Ripley*, 3 Rob. (La.) 135.

SEC. 134. All registers and receivers shall be appointed ^{Duration of office of registers and receivers.} for the term of four years, but shall be removable at pleasure.

3 Stat. 532; R. S. 2244. *Best v. Polk*, 18 Wall. 112.

SEC. 135. Every register and receiver shall reside at the ^{Residence of register and receiver.} place where the land office for which he is appointed is directed by law to be kept.

R. S. 2235. [See all acts establishing land districts.]

SEC. 136. Every register and receiver shall, before entering on the duties of his office, give bond in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of his trust. ^{Bond of register and receiver.}

2 Stat. 73, 75; 10 *id.* 245; R. S. 2236. *U. S. v. Vanzandt*, 11 Wheat. 184; *Walton v. U. S.*, 9 *id.* 651; *Minor v. Mechanics' Bank*, 1 Pet. 46; *U. S. v. Tingey*, 5 *id.* 115; *Farrar et al. v. U. S.*, 5 *id.* 373; *U. S. v. Boyd*, 15 *id.* 187; *U. S. v. Linn*, 15 *id.* 290; *U. S. v. Irving*, 1 How., 250; *U. S. v. Girault*, 11 *id.* 22; *U. S. v. Prescott*, 3 *id.* 578; *U. S. v. Boyd*, 5 *id.* 29; *Bryan v. U. S.*, 1 Black, 140; *Boyden v. U. S.*, 13 Wall. 17; *Bevans v. U. S.*, 13 *id.* 56; *U. S. v. Thomas*, 15 *id.* 337. *Alexandria v. Corso*, 2 Cranch, C. C. 363; *U. S. v. Stephenson*, 1 McLean, C. C. 462; *U. S. v. Spencer*, 2 *id.* 265; *U. S. v. Ward*, 3 *id.* 179. 8 Op. Att. Gen. 7. 1 Lester's L. L. 312, 314.

SEC. 137. Every register and receiver shall be allowed an annual salary of five hundred dollars; and, in addition thereto, each shall be allowed the following fees and commissions, namely: ^{Fees and commissions of register and receiver.}

3 Stat. 466; 12 *id.* 409; R. S. 2237. *Dobbins v. Commissioners, &c.*, 16 Pet. 435. Decisions Com. G. L. O., Feb. 20, 1858; May 1, 1871.

First. A fee of one dollar for each declaratory statement ^{On pre-emption.} filed and for services in acting on pre-emption claims.

5 Stat. 456; 13 *id.* 35; R. S. 2238. Decisions Com. G. L. O., June 17, 1875; Sept. 9, 1879. Cir. G. L. O., Aug. 7, 1872; March 10, 1880.

Second. A commission of one per centum on all moneys ^{On cash receipts.} received at each receiver's office.

3 Stat. 466; R. S. 2238. *U. S. v. Dickson*, 15 Pet. 141. *U. S. v. McCarty*, 1 McLean, C. C. 306; *U. S. v. Edwards*, 1 *id.* 467. Decision Sec. Int., May 30, 1859. Decision Com. G. L. O., March 6, 1878.

Third. A commission to be paid by the homestead appli- ^{On homesteads.}

cant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent.

12 Stat. 333; 16 *id.* 320; R. S. 2238. Decision Sec. Int., March 3, 1874. Decisions Com. G. L. O., May 7, 1877; Sept. 12, 1879. Cir. G. L. O., June 13, 1872; June 17, 1875; March 10, 1880.

On timber-cul-
ture entries.

Fourth. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.

17 Stat. 606; R. S. 2238. Decision Sec. Int., March 3, 1874. Decision Com. G. L. O., Sept. 12, 1879. Cir. G. L. O., Oct. 30, 1873; March 13, 1874; June 17, 1875; March 10, 1880.

On warrants
and agricultural-
college scrip.

Fifth. For locating military bounty-land warrants, issued since the eleventh day of February, eighteen hundred and forty-seven, and for locating agricultural-college land scrip, the same commission, to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of one dollar and twenty-five cents per acre; but they shall not be entitled to any fees for locating warrants which are authorized by law to be located free of expense by the Commissioner of the General Land Office, nor upon the location of warrants issued prior to the eleventh day of February, eighteen hundred and forty-seven.

9 Stat. 231; 10 *id.* 4; 12 *id.* 505; R. S. 2238, 2437. U. S. v. Babbit, 1 Black, 55; same case, 5 Otto, 334. Decision Sec. Int., March 1, 1876. Cir. G. L. O., Feb. 24, 1864; March 15, 1873; June 17, 1875; July 20, 1875; Feb. 13, 1879.

In donation
cases.

Sixth. A fee, in donation cases, of five dollars for each final certificate for one hundred and sixty acres of land, ten dollars for three hundred and twenty acres, and fifteen dollars for six hundred and forty acres.

12 Stat. 409; R. S. 2238.

On location of
lands by States
and corporations.

Seventh. In the location of lands by States and corporations under grants from Congress for railroads and other purposes (except for agricultural colleges), a fee of one dollar for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location.

13 Stat. 335; 18 *id.* 21; 19 *id.* 52; R. S. 2238. Railway Co. v. Prescott, 16 Wall. 603; Railway Co. v. McShane, 22 *id.* 444; Hunne- well v. Cass Co., 22 *id.* 464. Decisions Com. G. L. O., April 18, 1867; Aug. 8, 1867; Feb. 17, 1869; March 26, 1870.

For superin-
tending public
land sales; mile-
age.

Eighth. A fee of five dollars per diem for superintending public land sales at their respective offices; and, to each receiver, mileage in going to and returning from depositing the public moneys received by him.

3 Stat. 567; R. S. 2238.

For filing and
acting upon min-
eral-land applica-
tions.

Ninth. A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

17 Stat. 95; R. S. 2238.

For taking tes-
timony.

Tenth. Registers and receivers are allowed, jointly, at the rate of fifteen cents per hundred words for testimony reduced

by them to writing for claimants, in establishing pre-emption and homestead rights.

13 Stat. 35; R. S. 2238. Decision Com. G. L. O., Sept. 1, 1879. Cir. G. L. O., May 24, 1879.

Eleventh. A like fee as provided in the preceding subdivision when such writing is done in the land office, in establishing claims for mineral lands. Ibid.

17 Stat. 95; R. S. 2238. Decision Com. G. L. O., Sept. 1, 1879. Cir. G. L. O., May 24, 1879.

Twelfth. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section. Additional fees, &c., in certain States and Territories.

13 Stat. 36; R. S. 2238. [See, also, the several acts establishing land offices for Utah, Wyoming, and Montana.]

Thirteenth. A fee of one dollar shall be paid to registers for giving notice of cancellation to any person who has contested, paid the land-office fees, and procured the cancellation of any pre-emption, homestead, or timber-culture entry; the said fee to be paid by the contestant, and not to be reported. Fee for notice of cancellation.

Act of May 14, 1880.

SEC. 138. The register for any consolidated land district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other record information respecting public lands or land titles in his consolidated land district, such fees as are properly authorized by the tariff existing in the local courts of his district; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the desired record information. Fees of register and receiver for consolidated land offices.

12 Stat. 131; R. S. 2239. Cir. G. L. O., July 19, 1878.

SEC. 139. The compensation of registers and receivers, including salary, fees, and commissions, shall in no case exceed in the aggregate three thousand dollars a year, each; and no register or receiver shall receive for any one quarter or fractional quarter more than a pro rata allowance of such maximum. Maximum of compensation for registers and receivers.

3 Stat. 466; 10 *id.* 4; 11 *id.* 378; 12 *id.* 131, 393, 409, 505; 13 *id.* 36, 335; R. S. 2240. U. S. r. Babbit, 1 Black, 55; same case, 5 Otto, 334. Cir. G. L. O., Feb. 20, 1858; May 1, 1871; June 24, 1875; July 19, 1878; May 24, 1879.

SEC. 140. Whenever the amount of compensation received at any land office exceeds the maximum allowed by law to any register or receiver, the excess shall be paid into the Treasury, as other public moneys. Excess of compensation to be paid in Treasury.

10 Stat. 204; 12 *id.* 131; R. S. 2241.

SEC. 141. No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and, on satisfactory proof that either of such officers has charged or received fees or Illegal fees; penalty.

other rewards not authorized by law, he shall be forthwith removed from office.

10 Stat. 4, 306; R. S. 2242.

Compensation
of registers and
receivers, when
to commence.

SEC. 142. The compensation of registers and receivers, both for salary and commissions, shall commence and be calculated from the time they, respectively, enter on the discharge of their duties.

10 Stat. 615; R. S. 2243. U. S. v. Edwards, 1 McLean, C. C. 467. Cir. G. L. O., Feb. 20, 1858; May 1, 1871.

Monthly and
quarterly returns
of receivers.

SEC. 143. The receivers shall make to the Secretary of the Treasury monthly returns of the moneys received in their several offices, and pay over such money pursuant to his instructions. And they shall also make to the Commissioner of the General Land Office like monthly returns, and transmit to him quarterly accounts-current of the debits and credits of their several offices with the United States.

5 Stat. 111; R. S. 2245. Cir. G. L. O., July 1, 1871; June 24, 1875; July 19, 1878; May 24, 1879. Treasury Cir., July 13, 1871. 1 Lester's L. L. 312, 314.

Oaths adminis-
tered by registers
and receivers.

SEC. 144. The register or receiver is authorized, and it shall be their duty, to administer any oath required by law or the instructions of the General Land Office, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath.

5 Stat. 384; R. S. 2246.

Penalty for false
information by
register.

SEC. 145. If any person applies to any register to enter any land whatever, and the register knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such register shall be liable therefor to the person so applying, for five dollars for each acre of land which the person so applying, offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

5 Stat. 112; R. S. 2247.

Deposit of pub-
lic money.

SEC. 146. All receivers having public money to pay to the United States may pay the same to any depository constituted by or in pursuance of law, which may be designated by the Secretary of the Treasury, except that the receiver at San Francisco shall pay over such money to the United States assistant treasurer in that city at the office of said assistant treasurer.

9 Stat. 62; 16 *id.* 216; 17 *id.* 435; R. S. 3615, 3616.

Where claimant
of entry becomes
register or re-
ceiver.

SEC. 147. Where bona-fide settlers under the homestead or pre-emption laws have, subsequent to the date of filing their applications to enter not exceeding one quarter-section of public lands, been appointed a register or receiver of the land office of the district in which the lands are located, proof and payment must be made to the satisfaction of the Commissioner of the General Land Office.

17 Stat. 10; R. S. 2237. 4 Op. Att. Gen. 223; 7 *id.* 647.

CHAPTER FIVE.

SPECIAL AGENTS.

Sec.

148. Surveyor-general may appoint agents to examine surveys in the field.

Sec.

149. Officers, &c., detailed to investigate frauds may administer oaths.

SEC. 148. When it is incompatible with his other duties for a surveyor-general of the United States to personally inspect the surveying operations of his district while in progress in the field, he is authorized to depute a confidential agent to make such examination; and the actual and necessary expenses of such person shall be allowed and paid for that service, and five dollars per day during the examination in the field: *Provided*, That such examination shall not be protracted beyond thirty days, and in no case longer than is actually necessary; and when a surveyor-general, or any person employed in his office at a regular salary, shall be engaged in such special service, he or they shall only receive his necessary expenses in addition to his regular salary.

Surveyor-general may appoint agents to examine surveys in the field.

10 Stat. 248; R. S. 2223.

SEC. 149. Any officer or clerk of any of the executive departments of the government who shall be lawfully detailed to investigate frauds, or attempts to defraud, on the Government, or any irregularity or misconduct of any officer or agent of the United States, shall have power to administer oaths to affidavits taken in the course of any such investigation.

Officers detailed to investigate frauds may administer oaths.

16 Stat. 55, 75; U. S. v. Bailey, 9 Pet. 238.

Right of officers detailed on special duty to extra compensation: 1 Cranch, 137; U. S. v. Ripley, 7 Pet. 18; U. S. v. Fillebrown, 7 id. 28; Gratiot v. U. S., 15 id. 336; U. S. v. Brown, 9 How. 487; Converse v. U. S., 21 id. 463; Stanbury v. U. S., 8 Wall. 33. U. S. v. Jarvis, 1 Davies, C. C. 274. *Definition of office, and power to bind Government:* U. S. v. Hartwell, 6 Wall. 385; Whiteside et al. v. U. S., 3 Otto, 247. *Reimbursement of expenditures:* U. S. v. Jarvis, 2 Ware, C. C. 274. *Decisions Sec. Int., July 1, 1874; Sept. 21, 1874. Cir. G. L. O., July 1, 1871.*

[The authority to appoint special agents in the administration of the land laws seems to be derived from the annual appropriation bills, and from the general authority incident to the duty of executing the laws.]

CHAPTER SIX.

PUBLIC SALES AND PRIVATE ENTRIES.

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| <p>Sec.
 150. Public sale of lands in half quarter-sections.
 151. Advertisement of sales.
 152. Price of lands \$1.25 per acre.
 153. No credit on sales of public lands.
 154. Lands raised to \$2.50 per acre prior to January, 1861, reduced to \$1.25 per acre.
 155. Public lands may be offered for sale in such proportions as the President chooses.
 156. Duration of sales.
 157. Several certificates issued to two or more purchasers of same section.
 158. Private sales, in what bodies.
 159. Private sales, proceedings in.
 160. Highest bidder, when preferred in private sales.
 161. Minimum price, how fixed when reservations are sold.
 162. Lands in California subject to private entry and withdrawn, how to be opened to entry.</p> | <p>Sec.
 163. What coins receivable in payment for public lands.
 164. Mistakes in entry of lands, provisions for.
 165. Mistakes in patents for lands.
 166. Mistakes in location of warrants.
 167. Error in entry by mistake of numbers, proceedings upon
 168. Agreement and acts intended to prevent bids; penalty.
 169. Agreement to pay premiums to purchasers at public sales.
 170. Recovery of premiums paid to purchasers at public sales.
 171. Discovery of agreements to pay premium, by bill in equity.
 172. Limitation of entries by agricultural-college scrip.
 173. Sale of saline lands.</p> |
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Public sale of lands in half quarter-sections. SEC. 150. All the public lands, the sale of which is authorized by law, shall, when offered at public sale to the highest bidder, be offered in half quarter-sections.

3 Stat. 566; R. S. 2353.

Advertisement of sales. SEC. 151. The public lands which are exposed to public sale by order of the President shall be advertised in one newspaper published in the State or Territory where the lands are situated, to be designated by the Secretary of the Interior, for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

4 Stat. 702; 19 *id.* 221, 377; R. S. 2359.

Price of lands, \$1.25 per acre. SEC. 152. The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder, who makes payment as provided in the preceding section, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: *Provided*, That the price to be paid for alternate reserved lands, along the line of railroads within the limits

granted by any act of Congress, shall be two dollars and fifty cents per acre.

3 Stat. 566; 19 *id.* 377; R. S. 2357. *Chotard v. Pope*, 12 Wheat. 589; *Lytle v. Arkansas*, 9 How. 323; *Irvine v. Marshall*, 20 *id.* 633; *Eldred v. Sexton*, 19 Wall. 189. *Eldred v. Sexton*, 30 Wis. 193; *Hardwick v. Reardon*, 6 Ark. 77. 2 Op. Att. Gen. 186, 200; 3 *id.* 240, 274, 448; 4 *id.* 167; 5 *id.* 476; 7 *id.* 647. Decisions Sec. Int., March 16, 1870; Nov. 2, 1871; Nov. 20, 1871; Jan. 4, 1872; Sept. 5, 1878. Decisions Com. G. L. O., Aug. 31, 1830; June 21, 1865; Oct. 17, 1867; April 9, 1868; Sept. 12, 1872; Jan. 29, 1873; March 24, 1873; Nov. 27, 1874; Oct. 20, 1876. Cir. G. L. O., Sept. 10, 1849; June 17, 1875.

SEC. 153. Credit shall not be allowed for the purchase money on the sale of any of the public lands, but every purchaser of land sold at public sale shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of the purchase money on any tract, before he enters the same at the land office; and if any person, being the highest bidder at public sale for a tract of land, fails to make payment therefor on the day on which the same was purchased, the tract shall be again offered at public sale on the next day of sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sales.

3 Stat. 566; R. S. 2356. *Mathews v. Zane*, 7 Wheat. 164; *Chotard v. Pope*, 12 *id.* 589; U. S. v. *Boyd*, 5 How. 49; *Lytle v. Arkansas*, 9 *id.* 323; *Bell v. Hearne*, 19 *id.* 252; *Irvine v. Marshall*, 20 *id.* 558. 2 Op. Att. Gen. 186; 3 *id.* 150, 448; 5 *id.* 476. *Lott v. Prudhomme*, 3 Rob. (La.) 293; *Beaumont v. Covington*, 6 *id.* 189; *Leblance v. Ludrique*, 14 La. Ann. 772; *Newport v. Cooper*, 10 La. 155; *Kirby v. Fogleman*, 16 *id.* 277; *Wynn v. Garland*, 16 Ark. 440; *Witherspoon v. Duncan*, 21 *id.* 240; *Hunter v. Hemphill*, 6 Mo. 106; *Groom v. Hill*, 9 *id.* 320; *Russell v. DeFrance*, 39 *id.* 506; *Massey v. Smith*, 64 *id.* 347; *Stephenson v. Smith*, 7 Nev. 610; *Morenhaut v. Wilson*, 52 Cal. 226. Decisions Sec. Int., March 8, 1872; Sept. 5, 1878. Decisions Com. G. L. O., Aug. 31, 1830; Sept. 1, 1879. Cir. G. L. O., Sept. 10, 1849; June 17, 1875; Oct. 1, 1878.

SEC. 154. The price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty-one, by reason of the grant of alternate sections for railroad purposes, is hereby reduced to one dollar and twenty-five cents per acre.

Lands raised to \$2.50 per acre prior to January, 1861, reduced to \$1.25 per acre.

Act of June 15, 1880. Cir. G. L. O., July 17, 1880.

SEC. 155. Whenever the President is authorized to cause the public lands, in any land district, to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times he may offer for sale in the same manner any other part, or the remainder of the lands contained in the same.

Public lands may be offered for sale in such proportions as the President chooses.

2 Stat. 479; 19 *id.* 221, 377; R. S. 2353.

SEC. 156. The public sales of lands shall, respectively, be kept open for two weeks, and no longer, unless otherwise specially provided by law.

Duration of sales.

3 Stat. 567; R. S. 2360.

Several certificates issued to two or more purchasers of same section.

SEC. 157. Where two or more persons have become purchasers of a section or fractional section, the register of the land office of the district in which the lands lie shall, on application of the parties, and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the fractions so purchased be divided by other than north and south, or east and west, lines; nor shall any certificate issue for less than eighty acres.

4 Stat. 387; R. S. 2361. *Gaines v. Hale*, 16 Ark. 9; *Downs v. Scott*, 3 Rob. (La.) 84.

Private sales, in what bodies.

SEC. 158. All the public lands, when offered at private sale, may be purchased, at the option of the purchaser, in entire sections, half-sections, quarter-sections, half quarter-sections, or quarter quarter-sections.

4 Stat. 503; R. S. 2354.

Private sales, proceedings in.

SEC. 159. Every person making application at any of the land offices of the United States for the purchase at private sale of a tract of land shall produce to the register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half-section, quarter-section, half quarter-section, or quarter quarter-section, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.

2 Stat. 556; R. S. 2355. 3 Op. Att. Gen. 240. *Decisions Sec. Int.*, March 8, 1852; July 29, 1879; Aug. 9, 1879. *Decision Com. G. L. O.*, Dec. 20, 1858.

Highest bidder, when preferred in private sales.

SEC. 160. Where two or more persons apply for the purchase, at private sale, of the same tract, at the same time, the register shall determine the preference, by forthwith offering the tract to the highest bidder.

3 Stat. 567; R. S. 2365. 3 Op. Att. Gen. 240, 248.

Minimum price, how fixed when reservations sold.

SEC. 161. Whenever any reservation of public lands is brought into market, the Commissioner of the General Land Office shall fix a minimum price, not less than one dollar and twenty-five cents per acre, below which such lands shall not be disposed of.

13 Stat. 374; R. S. 2364. *Wolsey et al. v. Chapman*, S. C., Oct. T., 1879, in manuscript. 3 Op. Att. Gen. 274; 10 *id.* 359.

Lands in California subject to private entry and withdrawn, how to be opened to entry.

SEC. 162. Wherever lands in California subject to private entry have been or are hereafter withdrawn from market for any cause, such lands shall not thereafter be held subject to private entry until they have first been open for at least ninety days to homestead and pre-emption settlers, and again offered at public sale.

16 Stat. 304; 18 *id.* 497; R. S. 2367.

What coins receivable in payment for public lands

SEC. 163. The gold coins of Great Britain and other foreign coins shall be received in all payments on account of public lands, at the value estimated annually by the Director of the Mint, and proclaimed by the Secretary of the Treasury, in accordance with the provisions of section thirty-five hundred and sixty-four of the Revised Statutes, Title, "The Coinage."

3 Stat. 779; 11 *id.* 163; R. S. 2366.

SEC. 164. In every case of a purchaser of public lands, at private sale, having entered at the land office a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office; and if it appears from testimony satisfactory to the register and receiver, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land, or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, the register and receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

Mistakes in entry of lands, provisions for.

3 Stat. 526; R. S. 2369. Decisions Sec. Int., Jan. 28, 1850; Dec. 31, 1855; June 3, 1879. Decisions Com. G. L. O., April 22, 1856; May 8, 1856. Cir. G. L. O., Aug. 31, 1830; July 23, 1849; April 20, 1853; Jan. 19, 1854; April 30, 1867.

SEC. 165. The provisions of the preceding section are declared to extend to all cases where patents have issued or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

Mistakes in patents for lands.

4 Stat. 301; R. S. 2370.

SEC. 166. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land warrants.

Mistakes in location of warrants.

10 Stat. 257; R. S. 2371. *Colder v. Keegan*, 30 Wis. 126; *Ainsley v. Paterson*, 30 *id.* 653; *Faush v. Coon*, 40 Cal. 33. Cir. G. L. O., April 20, 1853.

SEC. 167. In all cases of an entry hereafter made, of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract, thus erroneously entered, does not, in quantity, exceed one half-section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion had been used to avoid the error, with the register and receiver of the land district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the

Error in entry by mistake of numbers; proceedings upon.

credibility of each person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion had been made to avoid it, is authorized to change the entry, and transfer the payment from the tract erroneously entered, to that intended to be entered, if unsold; but, if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize any such change of entry; nor shall anything herein contained affect the right of third persons.

4 Stat. 31; R. S. 2372. *Bellogs v. Todd*, 34 Iowa, 18.

Agreement and
acts intended to
prevent bids;
penalty.

SEC. 168. Every person who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees, or attempts to bargain, contract, or agree with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who by intimidation, combination, or unfair management, hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

4 Stat. 392; R. S. 2373. *Oliver v. Piatt*, 3 How. 333; *Fackler v. Ford et al.*, 24 *id.* 322; *Easley v. Kellom et al.*, 14 Wall. 279. *Standard v. McCarthy*, *Morris* (Iowa) 124.

Agreements to
pay premium to
purchasers at
public sales.

SEC. 169. If any person before, or at the time of the public sale of any of the lands of the United States, enters into any contract, bargain, agreement, or secret understanding with any other person, proposing to purchase such land, to pay or give to such purchasers for such land a sum of money or other article of property over and above the price at which the land is bid off by such purchasers, every such contract, bargain, agreement, or secret understanding, and every bond, obligation, or writing of any kind whatsoever, founded upon or growing out of the same, shall be utterly null and void.

4 Stat. 392; R. S. 2374. *Oliver v. Piatt*, 3 How. 333; *Fackler v. Ford et al.*, 24 *id.* 322; *Easley v. Kellom et al.*, 14 Wall. 279. *Wright v. Shumway*, 1 Bissell, C. C. 23.

Recovery of pro-
mises paid to
purchasers at
public sales.

SEC. 170. Every person being a party to such contract, bargain, agreement, or secret understanding, who pays to such purchaser any sum of money or other article of value, over and above the purchase money of such land, may sue for and recover such excess from such purchaser in any court having jurisdiction of the same.

4 Stat. 392; R. S. 2375. *Root v. Shields*, 1 Woolw. C. C. 340. *Ellis v. Mosier*, 2 Green (Iowa), 246.

Discovery of
agreements to
pay premium by
bill in equity.

SEC. 171. If the party aggrieved have no legal evidence of such contract, bargain, agreement, or secret understanding, or of the payment of the excess, he may, by bill in equity, compel such purchaser to make discovery thereof; and if in such case the complainant shall ask for relief, the court in which the bill is pending may proceed to final decree between

the parties to the same; but every such suit either in law or equity shall be commenced within six years next after the sale of such land by the United States.

4 Stat. 392; R. S. 2376. *Guh v. Cutter*, Burnett (Wis.) 92; 1 Pinney (Wis.) 253. *Root v. Shields*, 1 Woolw. C. C. 340.

SEC. 172. In no case shall more than three sections of public lands be entered at private entry in any one township by scrip issued to any State under the act approved July two, eighteen hundred and sixty-two, for the establishment of an agricultural college therein. Limitation of entries by agricultural college scrip.

15 Stat. 227; R. S. 2377. Cir. G. L. O., July 20, 1875.

SEC. 173. Whenever it shall be shown to the satisfaction of the Commissioner of the General Land Office, by testimony taken before the register and receiver in any land district, that any of the lands within their district are saline in character, and not subject to sale under the general land laws, such lands shall be offered for sale at public auction at the local land office of the district, in which they are situated, under regulations to be prescribed by the Commissioner, and sold to the highest bidder for cash, at a price not less than one dollar and twenty-five cents per acre; and in case said lands are not sold when so offered, they shall be subject to private sale at such land office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other public lands of the United States are sold: *Provided*, That this section shall not apply to any State or Territory to which a grant of salines has not been made by Congress, nor to any State or Territory to which such a grant has been made but which remains unsatisfied; and the patents issued for said lands shall be in the form of, and shall only operate as, a release and quitclaim of such title as the United States has in such lands. Sale of saline lands.

19 Stat. 221. *Delauriere v. Emison*, 15 How. 525; *Morton v. Nebraska*, 21 Wall. 660.

CHAPTER SEVEN.

PRE-EMPTIONS.

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| <p>Sec.</p> <p>174. Lands subject to pre-emption.</p> <p>175. Lands not subject to pre-emption.</p> <p>176. Persons entitled to pre-emption.</p> <p>177. Persons not entitled to pre-emption.</p> <p>178. Limitation of pre-emption right.</p> <p>179. Oath of pre-emptionist, where filed; penalty.</p> <p>180. Notice of intention to make final proof.</p> <p>181. Publication of notice of entry.</p> <p>182. Proof of settlement; assignment of pre-emption rights.</p> <p>183. Claim filed by settler on land not pre-claimed for sale.</p> <p>184. Statement to be filed by settler with intent to purchase, on lands subject to private entry.</p> <p>185. Declaratory statement of settlers on unsurveyed lands, when filed.</p> <p>186. Pre-emption claimants; time of making proof and payment.</p> <p>187. Lands relinquished by pre-emptors, subject to entry at once.</p> <p>188. Party contesting pre-emption entry to be allowed thirty days after notice of cancellation to make entry.</p> <p>189. Publication of notice of contest in pre-emption cases.</p> <p>190. Extension of time in certain cases to persons in military and naval service.</p> <p>191. Death before consummating claim; who to complete, &c.</p> <p>192. Entries of insane persons confirmed in certain cases.</p> <p>193. Non-compliance with laws caused by vacancy in office of register or receiver not to affect, &c.</p> <p>194. No pre-emption of lands sold but not confirmed by General Land Office.</p> | <p>Sec.</p> <p>195. Purchase by private entry after expiration of pre-emption right.</p> <p>196. When more than one settler, rights of appeal to Commissioner and Secretary of Interior.</p> <p>197. Settlements of two or more persons on same subdivision before survey.</p> <p>198. Settlements before survey on sections 16 and 36, deficiencies therefor.</p> <p>199. Selections to supply deficiencies of school lands.</p> <p>200. Military bounty-land warrants receivable for pre-emption payments.</p> <p>201. Agricultural-college scrip receivable in payment of pre-emptions.</p> <p>202. Pre-emption limit along railroad lines.</p> <p>203. Pre-emption rights on lands reserved for grants found invalid.</p> <p>204. Pre-emption rights on lands reserved for railroads.</p> <p>205. Right of additional location by pre-emptors within limits of forfeited railroad grants.</p> <p>206. Confirmation of pre-emption entries within railroad limits made prior to receipt of notice of withdrawal at local office.</p> <p>207. Lands within railroad grants re-entered after abandonment.</p> <p>208. Entries made after expiration of land grants.</p> <p>209. Where claimant of entry becomes register or receiver.</p> <p>210. Right of transfer of settlers under homestead and pre-emption laws for certain public purposes.</p> <p>211. Public sales of land not to be delayed by pre-emption claims.</p> |
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Lands, subject to pre-emption.

SEC. 174. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

12 Stat. 413; 18 *id.* 18, 334; 19 *id.* 35; R. S. 2257. *Minnesota v. Bachelder*, 1 Wall. 109; *Hughes v. U. S.*, 4 *id.* 232; *Hutchings v. Low*, 15 *id.* 77; *Shepley v. Cowan*, 1 Otto, 330; *Atherton v. Fowler*, 6 *id.* 513; *Hosmer v. Wallace*, 7 *id.* 575; *Trenouth v. San Francisco*, 10 *id.* 251. *Russell v. Beebe*, 1 Hemp. C. C. 704; *Gimmy v. Culverson*, 5 Saw. C. C. 605; *Hummell v. Railway Co.*, 3 Dillon C. C. 313. 3 Op. Att. Gen. 106, 697; 5 *id.* 7; 11 *id.* 490. *Terry v. Megerle*, 24 Cal. 609; *Hastings v. McGrogan*, 27 *id.* 85; *Robinson v. Forrest*, 29 *id.* 317; *People v. Shearer*, 30 *id.* 685; *Mahoney v.*

Van Winkle, 33 *id.* 448; *Smith v. Athern*, 34 *id.* 270; *Hutton v. Frisbie*, 37 *id.* 475; *Sherman v. Buick*, 45 *id.* 656; *Foscalina v. Doyle*, 47 *id.* 438; *Reed v. Caruthers*, 47 *id.* 181; *Umbarger v. Chaboya*, 49 *id.* 525; *Mastick v. Cave*, 52 *id.* 67; *West v. Smith*, 52 *id.* 322; *Perry v. O'Hanlan*, 11 Mo. 373; *McDaniel v. Orston*, 12 *id.* 12; *Bray v. Roysdale*, 53 *id.* 170; *Rector v. Gaines*, 19 Ark. 70; *Thompson v. Schlater*, 13 La. 115; *Woodward v. McReynolds*, 2 Pinney (Wis.) 263; *Challefont v. Erignon*, 4 Wis. 554; *Arnold v. Grimes*, 2 Iowa, 1; *Smith v. Mosier*, 5 Blackf. (Ind.) 51; *Sumner v. Coleman*, 23 Ind. 91; *Delaney v. Burnett*, 9 Ills. 454; *Brown v. Throckmorton*, 11 *id.* 529; *Baty v. Sale*, 43 *id.* 351; *Stalmacker v. Morrison*, 6 Neb. 363; *Stark v. Baldwin*, 7 *id.* 114. Decisions Sec. Int., April 10, 1872; Aug. 5, 1874; Oct. 11, 1878; May 8, 1880.

SEC. 175. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit: Lands not subject to pre-emption.

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.¹

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.²

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.³

Fourth. Lands on which are situated any known salines or mines.⁴

5 Stat. 455; 19 *id.* 221; R. S. 2258.

¹ *Barnard v. Ashley*, 18 How. 43; *Hale v. Gaines*, 23 *id.* 144; *Wilcox v. Jackson*, 13 Pet. 498; *U. S. v. Fitzgerald*, 15 *id.* 407; *Minnesota v. Bachelder*, 1 Wall. 109; *Shepley v. Cowan*, 1 Otto, 330; *Van Reynegan v. Bolton*, 5 *id.* 33; *Hosmer v. Wallace*, 7 *id.* 575; *Trenouth v. San Francisco*, 10 *id.* 251; *Wolsey v. Chapman*, S. C., Oct. T. 1879. *Turner v. Missionary Union*, 5 McLean, C. C. 344; *U. S. v. Railway Bridge Co.*, 6 *id.* 517; *Dupas v. Wassel*, 1 Dillon, C. C. 213; *Russell v. Beebe*, 1 Hemp. C. C. 704. *Josephs v. U. S.* 1 N. and H. 197; *Johnson v. U. S.* 2 *id.* 391. 2 Op. Att. Gen. 42, 578; 10 *id.* 56. *Bellows v. Todd*, 34 Iowa, 18; *Fenwick v. Gill*, 38 Mo. 510; *Gaines v. Hale*, 16 Ark. 9; same case, 26 *id.* 168; *Marks v. Dickson*, 10 La. Ann. 597; *McConnell v. Wilcox*, 1 Scam. (Ills.) 344; *Smith v. Goodell*, 66 Ills. 450; *Wood v. Railway Co.*, 11 Kansas, 323; *Eli v. Frisbie*, 17 Cal. 250; *Mahoney v. Van Winkle*, 21 *id.* 552; *Page v. Hobbs*, 27 *id.* 484; *Carpenter v. Sargent*, 41 *id.* 557. Decision Sec. Int., April 15, 1880.

² *Kissell v. St. Louis Pub. Schools*, 18 How. 19; *Stark v. Starrs*, 6 Wall. 402. *Root v. Shields*, 1 Woolw. C. C. 340. *Smiley, v. Sampson*, 1 Neb. 56; *Towsley v. Johnson*, 1 *id.* 95; *Nevada v. Rhodes*, 4 Nev. 312. Decisions Sec. Int., June 5, 1876; July 26, 1876; Nov. 5, 1878; Oct. 1, 1879.

³ Op. Att. Gen., July 3, 1871; July 24, 1871; Aug. 5, 1871; Sept. 27, 1871. Decisions Sec. Int., July 24, 1871; Nov. 5, 1878.

⁴ *U. S. v. Gear*, 3 How. 120; *Morton v. Nebraska*, 21 Wall. 660. Decision Sec. Int., Feb. 5, 1878.

SEC. 176. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter-section of land, to include the residence of such claimant, Persons entitled to pre-emption.

upon paying to the United States the minimum price of such land.

5 Stat. 455; 18 *id.* 194, 294, 334; 19 *id.* 35, 404, 405; R. S. 2259. *Lytle v. Arkansas*, 9 How. 314; *Barnard v. Ashley*, 18 *id.* 43; *Garland v. Wynn*, 20 *id.* 6; *Gazzam v. Phillips' Lessee*, 20 *id.* 372; *Lindsey v. Hawes*, 2 Black, 554; *Hughes v. U. S.*, 4 Wall. 232; *Frisbie v. Whitney*, 9 *id.* 187; *Hutchings v. Low*, 15 *id.* 77; *Ferguson v. McLaughlin*, 6 Otto, 174; *Hosmer v. Wallace*, 7 *id.* 575. *Gimmy v. Culverson*, 5 Saw. C. C. 605; *Root v. Shields*, 1 Woolw. C. C. 340. 3 Op. Att. Gen. 90, 126, 182, 303, 563; 4 *id.* 147; 5 *id.* 551; 7 *id.* 647, 746; 10 *id.* 56. *Lytle v. Arkansas*, 12 Ark. 9; *Kelly v. Wallace*, 14 Minn. 236; *Davis v. O'Fenall*, 4 Green (Iowa), 358; *McDowell v. Morgan*, 28 Ills. 528; *Towsley v. Johnson*, 1 Neb. 95; *Stark v. Baldwin*, 7 *id.* 114; *McFarland v. Culbertson*, 2 Nev. 280; *Ely v. Ellington*, 7 Mo. 302; *Page v. Hobbs*, 27 Cal. 484; *Kile v. Tubbs*, 28 *id.* 402; *Quinn v. Kenyon*, 38 *id.* 499; *Iburg v. Suanet*, 47 *id.* 265; *Burrell v. How*, 48 *id.* 223. Decisions Sec. Int., April 23, 1863; July 12, 1871; June 6, 1872; Oct. 25, 1873; May 20, 1874; May 31, 1875; Jan. 24, 1876; March 8, 1877; Feb. 13, 1878; April 3, 1878; Sept. 21, 1879. Decisions Com. G. L. O., May 12, 1857; June 6, 1872; Sept. 14, 1874; Oct. 13, 1874; April 4, 1879.

Persons not entitled to pre-emption.

SEC. 177. The following classes of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding section, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.¹

Second. No person who quits or abandons his residence on his own land to reside on the public lands in the same State or Territory.²

5 Stat. 455; R. S. 2260.

¹ Decision Sec. Int., April 24, 1873. Decision Com. G. L. O., Oct. 11, 1879.

² Decisions Com. G. L. O., Jan. 12, 1857; Oct. 11, 1879.

Limitation of pre-emption right.

SEC. 178. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section one hundred and seventy-six; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

5 Stat. 455, 620; R. S. 2261. *Johnson v. Towsley*, 13 Wall. 72. *Smiley v. Sampson*, 1 Neb. 56; *Stark v. Baldwin*, 7 *id.* 114; *Montgomery v. Whiting*, 40 Cal. 294. Decisions Sec. Int., June 6, 1876; Aug. 7, 1876; Dec. 18, 1876; June 2, 1877; May 21, 1879. Decisions Com. G. L. O., June 29, 1874; April 18, 1877; Sept. 18, 1877.

Oath of pre-emptionist, where filed; penalty.

SEC. 179. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register of the land district in which the land is situated that he has never had the benefit of any right of pre-emption under section one hundred and seventy-six; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatsoever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any

person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, for a valuable consideration, shall be null and void, except as provided in section two hundred and ten. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land office of such district, and to transmit a duplicate copy to the General Land Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

The affidavit required by this section may be made before the clerk of the county court or of any court of record, of the county and State or district and Territory in which the lands are situated; and if the lands are situated in any unorganized county, the affidavit may be made in a similar manner in any adjacent county in said State or Territory, and the affidavit so made and duly subscribed shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such clerk of the court to the register and receiver with the fee and charges allowed by law.

Final proof made before clerk of county court.

5 Stat. 456; act of June 9, 1880; R. S. 2262. *Thredgill v. Pintard*, 12 How. 24; *Garland v. Wynn*, 20 id. 6; *Harkness v. Underhill*, 1 Black, 316; *Myers v. Croft*, 13 Wall. 291; *Easley v. Kellom*, 14 id. 279; *Lamb v. Davenport*, 18 id. 307; *Hosmer v. Wallace*, 7 Otto, 575. *Dorman v. Ames*, 12 Minn. 451; *Smith v. Sackett*, 15 Ills. 528; *Miller v. Thomas*, 14 id. 428; *Ainsworth v. Miller*, 20 Kansas, 220; *Wedekind v. Craig*, S. C. Cal., Aug. 7, 1880, in manuscript. Decisions Sec. Int., Oct. 19, 1872; March 11, 1874; Sept. 18, 1874; Oct. 12, 1874; Feb. 22, 1875; Nov. 30, 1875; June 28, 1876; Feb. 29, 1876; Feb. 26, 1877; March 19, 1880; May 17, 1880. Decisions Com. G. L. O., July 13, 1877; Oct. 11, 1879.

SEC. 180. That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption entries, such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established.

Notice of intention to make final proof.

20 Stat. 472.

SEC. 181. Upon the filing of the notice required by the preceding section the register shall publish a notice, that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Publication of notice of entry.

20 Stat. 472. 14 Op. Att. Gen. 601.

SEC. 182. Prior to any entries being made under and by

Proof of settlement; assignment of pre-emption rights.

virtue of the provisions of section one hundred and seventy-six, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

5 Stat. 456; R. S. 2263. *Lytle v. Arkansas*, 9 How. 314; *Thredgill v. Pintard*, 12 *id.* 24; *Cunningham v. Ashley*, 14 *id.* 377; *Garland v. Wynn*, 20 *id.* 6; *Marks v. Dickson*, 20 *id.* 501; *Lytle v. Arkansas*, 22 *id.* 193; *Harkness v. Underhill*, 1 Black, 316; *Litchfield v. Register et al.*, 9 Wall. 575; *Myers v. Croft*, 13 *id.* 291; *Easley v. Kellom*, 14 *id.* 279; *Hutchings v. Low*, 15 *id.* 77; *Lamb v. Davenport*, 18 *id.* 307. *Root v. Shields*, 1 Woolw. C. C. 340; *Kellom v. Easley*, 1 Dillon, C. C. 281. 1 Op. Att. Gen. 291; 2 *id.* 42; 3 *id.* 91; 10 *id.* 56. *Lytle v. Arkansas*, 12 Ark. 9; *Keller v. Belleaucaeu*, 6 La. Ann. 643; *Strong v. Rachal*, 16 La. 232; *Kellam v. Ripley*, 3 Rob. (La.) 138; *McElyea v. Hayter*, 2 Port. (Ala.) 148; *Lamont v. Stimson*, 3 Wis. 545; *Challefant v. Grignon*, 4 *id.* 354; *Camp v. Smith*, 2 Minn. 155; *Evans v. Fulsom*, 5 *id.* 422; *Bruggerman v. Peter*, 7 *id.* 337; *Randall v. Edert*, 7 *id.* 450; *McCne v. Smith*, 9 *id.* 252; *Ferguson v. Kumbler*, 11 *id.* 184; *Kelly v. Wallace*, 14 *id.* 236; *Woodbury v. Dorman*, 15 *id.* 338; *Jones v. Tainter*, 15 *id.* 512; *Sharon v. Woolrick*, 18 *id.* 354; *Marshall v. Bush*, *Morris (Iowa)*, 275; *Pierson v. David*, 1 Iowa, 24; *Snow v. Flannery*, 10 *id.* 318; *Deland v. Day*, 45 *id.* 37; *Carr v. Allison*, 5 Blackf. (Ind.) 63; *Doe v. Hayes*, 1 Ind. 247; *Sumner v. Coleman*, 23 *id.* 91; *McConnell v. Wilcox*, 1 Scam. (Ila.) 344; *Gray v. McCance*, 14 Ills. 343; *McDowell v. Morgan*, 28 *id.* 528; *Baty v. Sale*, 43 *id.* 351; *Robbins v. Brown*, 54 *id.* 48; *Towsley v. Johnson*, 1 Neb. 95; *Franklin v. Kelly*, 2 *id.* 79; *McKean v. Crawford*, 6 Kansas, 112; *McKean v. Meassley*, 6 *id.* 122; *Ainsworth v. Miller*, 20 *id.* 220; *Lapham v. Hend*, 21 *id.* 332; *Rose v. Treadway*, 4 Nev. 455; *Treadway v. Wilder*, 8 *id.* 91; *Tartar v. Hall*, 3 Cal. 263; *Larue v. Gaskins*, 5 *id.* 164; *Whiting v. Buckman*, 13 *id.* 536; *Page v. Fowler*, 28 *id.* 605; *Megerle v. Ashe*, 33 *id.* 74; *Quinn v. Kenyon*, 38 *id.* 499; *Damrell v. Meyer*, 40 *id.* 166; *Moore v. Besse*, 43 *id.* 511; *Thurston v. Alva*, 45 *id.* 16; *Hudson v. Johnson*, 45 *id.* 21; *Iburg v. Suanet*, 47 *id.* 265; *Huston v. Walker*, 47 *id.* 484; *Burrell v. How*, 48 *id.* 223; *Snow v. Kimmer*, 52 *id.* 624; *Douglas v. Gould*, 52 *id.* 656; *Dilla v. Bohall*, S. C. Cal., Nov. T. 1879; *Chapman v. Quinn*, S. C. Cal., March 13, 1880; *Paulding v. Grinslay*, 10 Mo. 135. *Decisions Sec. Int.*, April 25, 1872; Feb. 18, 1874; March 9, 1875; Jan. 31, 1876; April 27, 1876; May 17, 1876; May 18, 1876; May 25, 1876; Dec. 9, 1876; Feb. 7, 1877; March 21, 1877; March 21, 1878; Nov. 13, 1878.

Claim filed by settler on land not proclaimed for sale.

SEC. 183. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the register of the proper land office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

5 Stat. 620; R. S. 2265. *Johnson v. Towsley*, 13 Wall. 72; *Moore v. Robbins*, 6 Otto, 530. 9 Op. Att. Gen. 515. *Decisions Sec. Int.*, Sept. 6, 1873; Feb. 6, 1874; June 2, 1876; Jan. 24, 1877; May 2, 1877; March 21, 1878; April 19, 1878. *Decision Com. G. L. O.*, May 20, 1880.

Statement to be filed by settler with intent to purchase, on lands subject to private entry.

SEC. 184. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the

date of such settlement, file with the register of the proper district a written statement, describing the land settled upon and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

5 Stat. 457; R. S. 2264. *Clements v. Warner*, 24 How. 394; *Johnson v. Towsley*, 13 Wall. 72; *Moore v. Robbins*, 6 Otto, 530. 4 Op. Att. Gen. 493; 9 *id.* 515. *Lytle v. Arkansas*, 17 Ark. 608; *Godeau v. Phillips*, 3 La. 59; *Orillion v. Delande*, 9 *id.* 53; *Kitteridge v. Brenand*, 4 Rob. (La.) 79; *Landeling v. Vester*, 20 La. Ann. 433; *Baty v. Sale*, 43 Ills. 351; *Smiley v. Sampson*, 1 Neb. 56; *Stalmacker v. Morrison*, 6 *id.* 363; *Perry v. O'Hanlon*, 11 Mo. 373; *Kenyon v. Quinn*, 41 Cal. 325; *Low v. Hutchings*, 41 *id.* 643; *McDonald v. Edmonds*, 44 *id.* 328; *Townsend v. Little*, 45 *id.* 673; *Hess v. Balinger*, 48 *id.* 349; *Rosecrans v. Douglass*, 52 *id.* 213. Decisions Sec. Int., July 17, 1871; Dec. 28, 1871; April 10, 1873. Decisions Com. G. L. O., Jan. 12, 1857; Jan. 21, 1880.

SEC. 185. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land office of the approved plat of the township embracing such pre-emption settlement.

Declaratory statement of settlers on unsurveyed lands, when filed.

12 Stat. 410; R. S. 2266. *Lansdale v. Daniels*, 10 Otto, 113. 9 Op. Att. Gen. 515. *Wynn v. Morris*, 16 Ark. 414; *Robinson v. Forrest*, 29 Cal. 317; *Megerle v. Ashe*, 33 *id.* 74; *Damrell v. Meyer*, 40 *id.* 166; *Hollinshed v. Simms*, 51 *id.* 158; *Pope v. Athearn*, 42 *id.* 606; *Collins v. Bartlett*, 44 *id.* 371. Decisions Sec. Int., May 21, 1875; Jan. 15, 1878; July 2, 1879. Decisions Com. G. L. O., Jan. 12, 1857; May 15, 1874; June 16, 1874; Jan. 20, 1880.

SEC. 186. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the lands claimed within thirty months after the date prescribed therein, respectively, for filing their declaratory notices, has expired.

Pre-emption claimants; time of making proof and payment.

16 Stat. 279, 604; 18 *id.* 52, 81; 19 *id.* 55; R. S. 2267. *Doe v. Stephenson*, 9 Ind. 144. Decisions Sec. Int., Nov. 21, 1878; Feb. 28, 1879; May 21, 1879; June 5, 1880. Decisions Com. G. L. O., March 8, 1878; Sept. 25, 1879.

SEC. 187. When a pre-emption claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

Lands relinquished by pre-emptor subject to entry at once.

Act of May 14, 1880. Cir. G. L. O., May 25, 1880.

SEC. 188. In all cases where any person has contested, paid the land office fees and procured the cancellation of any pre-emption entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter such lands; and the register shall be entitled to a fee of one dollar for giving such

Party contesting pre-emption entry to be allowed thirty days after notice of cancellation to make entry.

notice, to be paid by the contestant, and not to be reported.

Act of May 14, 1880. Cir. G. L. O., May 25, 1880.

Publication of notices of contest in pre-emption cases.

SEC. 189. The notices of contest provided by law under the pre-emption laws shall be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land.

20 Stat. 91. 14 Op. Att. Gen. 601.

Extension of time in certain cases to persons in military and naval service.

SEC. 190. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land office for the district in which his settlement is made.

13 Stat. 35; R. S. 2268. Decision Sec. Int., Jan. 25, 1879. Decisions Com. G. L. O., May 18, 1866; March 8, 1875. Cir. G. L. O., April, 1864.

Death before consummating claim; who to complete, &c.

SEC. 191. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

5 Stat. 620; R. S. 2269. *Galloway v. Finley et al.*, 12 Pet. 264; *Day-enport v. Lamb*, 13 Wall. 418. 1 Op. Att. Gen. 361. *McDaniel v. Graco*, 15 Ark. 465; *Faver v. Levi*, *Morris* (Iowa), 372; *Cullen v. Riley*, 7 Iowa, 517; *Longworthy v. Heeb*, 46 *id.* 64; *Grove v. Fulsome*, 16 Mo. 543. Decisions Sec. Int., March 3, 1875; April 18, 1876. Decision Com. G. L. O., Aug. 17, 1878. 1 *Lester's L. L.* 420, 464, 465.

Pre-emptionen-tries of insane persons confirmed in certain cases.

SEC. 192. In all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the pre-emption laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General

Land Office that the parties complied in good faith with the legal requirements up to the time of becoming insane.

Act of June 8, 1880.

SEC. 193. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

Non-compliance with laws caused by vacancy in office of register or receiver not to affect, &c.

5 Stat. 620; R. S. 2270.

SEC. 194. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land Office, on account of any alleged defect therein.

No pre-emption of lands sold but not confirmed by Land Office.

5 Stat. 534; R. S. 2271.

SEC. 195. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre-emption.

Purchase by private entry after expiration of pre-emption right.

5 Stat. 621; R. S. 2272.

SEC. 196. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

When more than one settler, rights of; appeals to Commissioner and Secretary of Interior.

5 Stat. 456; 11 *id.* 326; R. S. 2273. *Brown's Lessee v. Clements*, 3 How. 650; *Lytle v. Arkansas*, 9 *id.* 314; *Cunningham v. Ashley*, 14 *id.* 377; *Garland v. Wynn*, 20 *id.* 6; *Lytle v. Arkansas*, 22 *id.* 193; *Litchfield v. Register and Receiver*, 9 Wall. 575; *Johnson v. Towseley*, 13 *id.* 72; *Warren v. Van Brunt*, 19 *id.* 646; *Shepley v. Cowan*, 1 Otto, 330. *Minnesota v. Bachelder*, 5 Minn. 223; *Warren v. Van Brunt*, 12 *id.* 70; *Bird v. Ward*, 1 Mo. 398; *Lewis v. Lewis*, 9 *id.* 183; *Heill v. Miller*, 36 *id.* 182; *Gaines v. Hale*, 16 Ark. 9; *Lytle v. Arkansas*, 17 *id.* 608; *Lamont v. Stimson*, 3 Wis. 545; *Faber v. Levi*, *Morris (Iowa)*, 372; *Jamison v. Doe*, 4 Ills. 113; *Gray v. McCance*, 14 *id.* 343; *McGee v. Wright*, 16 *id.* 557; *Aldrich v. Aldrich*, 37 *id.* 32; *Burnett v. Farrar*, 7 *id.* 558; *Baty v. Sale*, 43 *id.* 351; *Robbins v. Brown*, 54 *id.* 48; *Rogers v. Brent*, 5 Gill, 580; *Smiley v. Sampson*, 1 Neb. 56; *Nevada v. Rhodes*, 4 Nev. 312; *Calwell v. Smith*, 1 Wash. T. 109; *Megerle v. Ashe*, 33 Cal. 74; *Quinn v. Kenyon*, 33 *id.* 499; *Burrell v. How*, 40 *id.* 373; *Hosmer v. Wallace*, 47 *id.* 461; *Savings Bank v. Hym*, 50 *id.* 195; *Hesters v. Brennan*, 50 *id.* 211; *Vance v. Kohlburg*, 50 *id.* 346; *Rutledge v. Murphey*, 51 *id.* 389. *Decisions Sec. Int.*, Nov. 14, 1874; June 29, 1875; Sept. 8, 1875; April 26, 1876; July 11, 1876; Oct. 25, 1876; April 19, 1878; June 28, 1878; Oct. 11, 1878; Jan. 30, 1880; April 29, 1880.

Settlements of two or more persons on same subdivision before survey.

SEC. 197. When settlements have been made upon agricultural public lands of the United States, prior to the survey thereof, and it has been or shall be ascertained, after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making said contract, to file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

17 Stat. 609; R. S. 2274. *Warren v. Van Brunt*, 19 Wall. 646. *Downes v. Scott*, 3 Rob. (La.) 84; *Snow v. Flannery*, 10 Iowa, 318. Decisions Sec. Int., March 3, 1875; Sept. 8, 1875; July 8, 1876; Sept. 16, 1879. Decision Com. G. L. O., June 8, 1874.

Settlements before survey on sections 16 or 36, deficiencies thereof.

SEC. 198. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

11 Stat. 385; 18 *id.* 202; R. S. 2275. *Barnard v. Ashley*, 18 How. 43; *Minnesota v. Bachelder*, 1 Wall. 109; *Sherman v. Buick*, 3 Otto, 209; *Water and Mining Co. v. Bugbey*, 6 *id.* 165. *Athearn v. Pope*, 25 Cal. 632; *Smith v. Athern*, 34 *id.* 506; *Minnesota v. Bachelder*, 7 Minn. 121; *Layton v. Troxell*, 11 Nev. 451. Decisions Sec. Int., March 14, 1862; March 28, 1873; March 10, 1876; May 3, 1879; April 12, 1879; June 22, 1880. Decision Com. G. L. O., Dec. 27, 1879.

Selections to supply deficiencies of school lands.

SEC. 199. The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one half-section; and for a fractional township, containing a greater quantity of land than one entire section

and not more than one-quarter of a township, one quarter-section of land.

4 Stat. 179; 11 *id.* 385; 18 *id.* 202; R. S. 2276.

SEC. 200. All warrants for military bounty-lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Military bounty land warrants receivable for pre-emption payments.

10 Stat. 3; R. S. 2277.

SEC. 201. Agricultural-college scrip, issued to any State under the act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty-land warrants, by the preceding section.

Agricultural-college scrip receivable in payment of pre-emption claims.

16 Stat. 186; R. S. 2278.

SEC. 202. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

Pre-emption limit along railroad lines.

10 Stat. 244; 18 *id.* 519; R. S. 2279.

SEC. 203. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre-emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

Pre-emption rights on lands reserved for grants found invalid.

10 Stat. 244; R. S. 2280. *Mahoney v. Van Winkle*, 33 Cal. 448; *Umbarger v. Chaboya*, 49 *id.* 525; *Rutledge v. Murphey*, 51 *id.* 389.

SEC. 204. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

Pre-emption rights on lands reserved for railroads.

10 Stat. 269; 16 *id.* 279; 18 *id.* 519; R. S. 2281. *Baker v. Gee*, 1 Wall. 333; *Lansdale v. Daniels*, 10 Otto, 113. *Railway Co. v. Baldwin*, 7 Neb. 247; *Collins v. Bartlett*, 44 Cal. 371; *Campbell v. Buckman*, 49 *id.* 362; *Weaver v. Fairchild*, 50 *id.* 360. *Decisions Sec. Int.*, Sept. 24, 1862; July 31, 1872; March 31, 1873; Feb. 18, 1874; Sept. 10, 1874; Sept. 19, 1874; March 23, 1875; March 22, 1876; Oct. 15, 1878; July 2, 1879. *Decisions Com. G. L. O.*, Sept. 12, 1862; Aug. 23, 1871; Feb. 18, 1873; March 12, 1873.

SEC. 205. Where any actual settler who shall have paid for any lands situate within the limits of any grant of lands by Congress to aid in the construction of any railroad, the price of such lands being fixed by law at double-minimum rates, and such railroad lands having been forfeited to the United States and restored to the public domain for failure to build such railroad, such person or persons shall have

Right of additional location by pre-emptors within limits of forfeited railroad grants.

the right to locate, on any unoccupied lands, an amount equal to their original entry, without further cost, except such fees as are now provided by law in pre-emption cases; but when such location is made upon double-minimum lands, one-half the amount only shall be taken.

18 Stat. 519.

Confirmation of pre-emption entries within railroad limits made prior to receipt of notice of withdrawal at local office.

SEC. 206. All pre-emption entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the General Land Office, and where the pre-emption laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patents for the same shall issue to the parties entitled thereto.

19 Stat. 35. Decisions Sec. Int., Aug. 9, 1876; Oct. 24, 1876; Sept. 16, 1876; Jan. 27, 1877; March 30, 1877; Oct. 12, 1877; Jan. 30, 1878; Feb. 7, 1878; May 22, 1878; June 3, 1878; June 11, 1878; Dec. 18, 1878; Dec. 20, 1878; Jan. 25, 1879; Jan. 31, 1879; July 19, 1879; July 24, 1879; Aug. 23, 1879; Sept. 17, 1879; Oct. 24, 1879; Nov. 13, 1879. Decisions Com. G. L. O., Feb. 14, 1876; Sept. 16, 1876; Jan. 3, 1878; Aug. 2, 1878.

Lands within railroad grants re-entered after abandonment.

SEC. 207. When at the time of the withdrawal, as stated in the preceding section, valid pre-emption claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were re-entered by pre-emption claimants who have complied with the laws governing pre-emption entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

19 Stat. 35. Decisions Sec. Int., Aug. 17, 1876; April 21, 1877; May 1, 1877; May 3, 1877; May 6, 1878; June 27, 1878; Aug. 14, 1878; Aug. 28, 1878; Nov. 7, 1878; Jan. 21, 1879; March 14, 1879; April 4, 1879; June 28, 1879; July 23, 1879; Oct. 16, 1879; Dec. 13, 1879. Decision Com. G. L. O., Feb. 5, 1879. Cir. G. L. O., Nov. 7, 1871.

Entries made after expiration of land grants.

SEC. 208. All such pre-emption entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such a claim to a patent therefor.

19 Stat. 35.

Where claimant of entry becomes register or receiver.

SEC. 209. Any bona-fide settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter-section of the public lands in any district land office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by

law, to the satisfaction of the Commissioner of the General Land Office.

17 Stat. 10; R. S. 2287. U. S. v. Fitzgerald, 15 Pet. 407. 4 Op. Att. Gen. 223; 7 *id.* 647.

SEC. 210. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

Right of transfer of settlers under homestead or pre-emption laws for certain public purposes.

17 Stat. 602; R. S. 2288.

SEC. 211. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

Sale of land not to be delayed, &c.

5 Stat. 457; R. S. 2282. Decision Sec. Int., Feb. 5, 1876.

NOTE.—The following acts authorizing settlers upon the public lands under the pre-emption, homestead, and timber-culture laws, whose crops were destroyed by grasshoppers, to absent themselves temporarily from their lands, &c., and extending the time for making final proof, have been passed from time to time by Congress, viz: 18 Stat. 81; 19 *id.* 54, 55, 59, 405; 20 *id.* 88, 169; act of June 4, 1880.

CHAPTER EIGHT.

HOMESTEADS.

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|---|---|
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Who may enter certain unappropriated public lands.

SEC. 212. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section or a less quantity of unappropriated public lands, upon which such person may have filed a pre-emption claim, or which

may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

12 Stat. 392; 18 *id.* 15, 22, 194, 331, 420; 19 *id.* 35, 405; R. S. 2289. Railway Co. v. Watts, 2 Dillon, C. C. 310. Bellows v. Todd, 34 Iowa, 18; Deland v. Day, 45 *id.* 37; Blair Town Co. v. Kitteringham, 43 *id.* 462; Walker v. Stone, 48 *id.* 92; Stalmacker v. Morrison, 6 Neb. 363; Stark v. Baldwin, 7 *id.* 114; Railway Co. v. Baloni, 7 *id.* 247; Keeran v. Allen, 33 Cal. 542; Emmerson v. Samsome, 41 *id.* 552. Decisions Sec. Int., Oct. 16, 1870; April 28, 1871 (1 Copp's L. O. 36); June 20, 1871 (1 *id.* 114); July 8, 1871 (Copp's L. L. 231); Nov. 1, 1871 (*id.* 240); June 19, 1872; May 19, 1874; June 1, 1874 (1 Copp's L. O. 35); Sept. 16, 1874; Aug. 25, 1875 (2 Copp's L. O. 83); Sept. 23, 1875 (2 *id.* 100); Jan. 12, 1876 (2 *id.* 162); April 4, 1876 (3 *id.* 21); April 12, 1876 (3 *id.* 52); April 29, 1876 (3 *id.* 114); Aug. 3, 1876 (3 *id.* 122); Jan. 5, 1877 (3 *id.* 164); March 7, 1877; Sept. 14, 1878; Jan. 6, 1879 (5 Copp's L. O. 179); Sept. 16, 1879 (6 *id.* 108); Sept. 27, 1879 (6 *id.* 107); June 22, 1880 (7 *id.* 66). Decisions Com. G. L. O., Dec. 18, 1867 (Zab. L. L. 162); Feb. 28, 1868; (*id.* 164); May 15, 1868 (*id.* 165); June 23, 1870 (7 Copp's L. O. 25); May 8, 1871 (Copp's L. L. 228); July 11, 1871; Feb. 5, 1873; March 28, 1873 (2 Copp's L. O. 57); Feb. 10, 1874 (1 *id.* 3); March 11, 1874 (1 *id.* 19); March 20, 1874 (1 *id.* 34); March 26, 1874 (1 *id.* 4); April 15, 1874 (1 *id.* 20); May 7, 1874 (1 *id.* 39); May 15, 1874 (1 *id.* 35); May 21, 1874 (1 *id.* 35); Aug. 4, 1874; Sept. 26, 1874 (1 Copp's L. O. 99); Sept. 29, 1874 (5 *id.* 172); Oct. 5, 1874 (Copp's L. L. 280); Oct. 28, 1874; Nov. 27, 1874 (1 Copp's L. O. 163); Feb. 20, 1875 (1 *id.* 180); March 27, 1875 (2 *id.* 34); May 22, 1875 (2 *id.* 82); Dec. 1, 1875 (2 *id.* 132); April 13, 1876 (3 *id.* 19); June 8, 1876 (2 *id.* 181); Dec. 5, 1876 (3 *id.* 178); Jan. 6, 1877 (4 *id.* 168); Jan. 12, 1877 (4 *id.* 107); March 23, 1877 (6 *id.* 137); July 11, 1877 (4 *id.* 83); Aug. 16, 1877 (4 *id.* 103); Aug. 18, 1877 (4 *id.* 107); Nov. 28, 1877 (4 *id.* 146); Jan. 8, 1878 (6 *id.* 125); Dec. 7, 1878 (5 *id.* 147); June 23, 1879 (6 *id.* 51); July 30, 1879 (6 *id.* 106); Oct. 10, 1879 (6 *id.* 125); Feb. 3, 1880 (6 *id.* 190). Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147, 151); June 25, 1869 (Copp's L. L. 248); Aug. 15, 1872 (1 Copp's L. O. 23); Jan. 19, 1878 (6 *id.* 125); Aug. —, 1878 (5 *id.* 118); Oct. 18, 1878 (5 *id.* 164); Nov. 1, 1878 (5 *id.* 147); Nov. 14, 1878 (5 *id.* 165); July 1, 1879 (6 *id.* 92); Sept. 1, 1879. Rules 24-27, G. L. O. Rep. 1877, p. 101.

SEC. 213. The person applying for the benefit of the preceding section shall, upon application to the register of the land office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Mode of procedure.

12 Stat. 392; 13 *id.* 35; 14 *id.* 67; 18 *id.* 192, 420; R. S. 2290. Litch-

field v. Register and Receiver, 1 Woolw. C. C. 299. *Oaks v. Heaton*, 44 Iowa, 116. Decisions Sec. Int., March 3, 1874; Sept. 16, 1874; Oct. 20, 1874 (1 Copp's L. O. 149); Jan. 12, 1876 (2 *id.* 162); Jan. 5, 1877 (1 *id.* 64); Jan. 23, 1880. Decisions Com. G. L. O., May 8, 1871 (Copp's L. L. 228); May 7, 1874 (1 Copp's L. O. 139); Sept. 23, 1874; Oct. 23, 1874; Feb. 20, 1875 (1 Copp's L. O. 180); April 13, 1876 (3 *id.* 19); March 23, 1877 (6 *id.* 137); Dec. 2, 1878 (5 *id.* 147); June 23, 1879 (6 *id.* 51); Sept. 12, 1879. Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147, 151); April 18, 1864 (*id.* 155); Feb. 28, 1868 (*id.* 164); May 15, 1868 (*id.* 165); June 15, 1872 (Copp's L. L. 239); May 18, 1877 (4 Copp's L. O. 51); Jan. 8, 1878 (4 *id.* 167); 1878 (5 *id.* 118); May 24, 1879 (6 *id.* 60). General Cir., Sept. 1, 1879, pp. 11, 20. Rule 23, G. L. O. Rep. 1877, p. 101.

Pre-emption fil-
ing changed to
homestead entry.

SEC. 214. Any person who has made a settlement on the public lands under the pre-emption laws, and has subsequent to such settlement changed his filing in pursuance of law to that for a homestead entry upon the same tract of land, shall be entitled, subject to all the provisions of law relating to homesteads, to have the time required to perfect his title under the homestead laws computed from the date of his original settlement heretofore made, or hereafter to be made, under the pre-emption laws.

19 Stat. 404; 20 *id.* 63. Decisions Sec. Int., June 20, 1871 (1 Copp's L. O. 103); June 19, 1872; Aug. 3, 1876 (3 Copp's L. O. 122); Sept. 16, 1879 (6 *id.* 108); Sept. 27, 1878 (6 *id.* 107). Decisions Com. G. L. O., May 21, 1877 (4 Copp's L. O. 51); Oct. 18, 1878 (5 *id.* 164). Cir. G. L. O., April 4, 1877 (4 Copp's L. O. 23); March 21, 1878 (5 *id.* 27). General Cir., Sept. 1, 1879, p. 15. Rules 24 and 27, G. L. O. Rep. 1877, p. 101.

Homestead set-
tlers allowed
same time as pre-
emptors to file
application for
lands.

SEC. 215. Any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States land office as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws.

21 Stat. 140, 141. Decisions Sec. Int., April 29, 1876 (3 Copp's L. O. 114); Aug. 3, 1876 (3 *id.* 122); Sept. 27, 1879 (6 *id.* 107). Decisions Com. G. L. O., May 7, 1874 (1 Copp's L. O. 139); Oct. 13, 1878 (5 *id.* 164). Cir. G. L. O., May 25, 1880 (7 Copp's L. O. 52).

Certificate and
patent, when
given and issued.

SEC. 216. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section two hundred and ten, and that he, she, or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided

by law. The proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by this section, may be made before the judge, or, in his absence, before the clerk, of any court of record of the county and State, or district and Territory, in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same; and if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

Proof of residence, &c.

False swearing, penalty for.

14 Stat. 67; 18 *id.* 81; 19 *id.* 403; R. S. 2291. *Mining Co. v. Daugherty*, 1 Saw. C. C. 450. *Oaks v. Heaton*, 44 Iowa, 116; *Deland v. Day*, 45 *id.* 37; *Dawson v. Merrille*, 2 Neb. 119; *Cheney v. White*, 5 *id.* 261; *Jones v. Yorkman*, 5 *id.* 265; *Perry v. Ashley*, 5 *id.* 291; *Bellinger v. White*, 5 *id.* 399; *Axtell v. Warden*, 7 *id.* 182; *McWilliams v. Bridges*, 7 *id.* 419; *Moore v. McIntosh*, 6 Kansas, 39; *Commissioners v. Shippman*, 14 *id.* 532; *Kirkaldie v. Larrabee*, 31 Cal. 456; *Jarvis v. Hoffman*, 43 *id.* 304. *Decisions Sec. Int.*, June 2, 1871 (Copp's L. L. 234); July 12, 1871 (*id.* 256); Oct. 21, 1871 (*id.* 233); Nov. 3, 1871 (*id.* 245); Jan. 31, 1872 (*id.* 238); Feb. 3, 1875; Aug. 5, 1875 (2 Copp's L. O. 83); Aug. 25, 1875 (2 *id.* 83); Dec. 4, 1875 (2 *id.* 131); April 6, 1876; Jan. 15, 1877 (3 Copp's L. O. 164); March 7, 1877; April 9, 1877 (4 Copp's L. O. 19); May 14, 1878; Dec. 5, 1878 (5 Copp's L. O. 146); Nov. 25, 1879 (6 *id.* 153); Feb. 7, 1880 (7 *id.* 6). *Decisions Com. G. L. O.*, June 24, 1867 (Zab. L. L. 160); Aug. 6, 1868 (*id.* 167); March 28, 1870 (2 Copp's L. O. 57); Feb. 10, 1874 (1 *id.* 3); March 26, 1874 (1 *id.* 4); May 15, 1874 (1 *id.* 35); June 10, 1874 (Copp's L. L. 239); June 19, 1874 (*id.* 238); July 25, 1874 (1 Copp's L. O. 92); Aug. 4, 1874 (Copp's L. L. 247); Aug. 22, 1874 (1 Copp's L. O. 84); Dec. 15, 1874 (1 *id.* 149); Dec. 19, 1874 (Copp's L. L. 271); June 22, 1875 (2 Copp's L. O. 50); July 31, 1875 (2 *id.* 83); Aug. 6, 1875 (2 *id.* 99); April 13, 1876 (3 *id.* 19); Feb. 25, 1877 (4 *id.* 108); May 7, 1877; June 29, 1877; July 6, 1877 (4 Copp's L. O. 168); July 25, 1877 (4 *id.* 108); Aug. 16, 1877 (4 *id.* 103); Aug. 18, 1877 (4 *id.* 107); Aug. 25, 1877 (4 *id.* 103); Oct. 22, 1877 (4 *id.* 131); Nov. 22, 1877 (4 *id.* 146); Dec. 4, 1877 (4 *id.* 146); Sept. 3, 1878 (5 *id.* 117); Oct. 2, 1878 (5 *id.* 117); Nov. 14, 1878; Dec. 5, 1878 (5 Copp's L. O. 147); Jan. 20, 1879 (5 *id.* 179); Jan. 29, 1879 (5 *id.* 179); Feb. 4, 1879 (5 *id.* 179); July 6, 1879; Aug. 11, 1879 (6 Copp's L. O. 93); Jan. 24, 1880 (6 *id.* 190); Feb. 19, 1880 (6 *id.* 189); March 24, 1880 (7 *id.* 24); April 22, 1880 (7 *id.* 25). *Cir. G. L. O.*, Oct. 30, 1862 (Zab. L. L. 147, 151); Feb. 28, 1868 (*id.* 164); May 15, 1868 (*id.* 165); Dec. 20, 1873 (Copp's L. L. 244); July 9, 1874 (*id.* 259); Aug. 17, 1874 (*id.* 260); Sept. 9, 1874 (*id.* 244); Jan. 5, 1875 (*id.* 261); Oct. 24, 1876 (3 Copp's L. O. 116); April 4, 1877 (4 *id.* 23); May 8, 1877 (4 *id.* 52); May 18, 1877 (4 *id.* 51); June 23, 1877 (4 *id.* 68); July 6, 1878 (5 *id.* 101); July 17, 1878 (5 *id.* 95); ———, 1878 (5 *id.* 118); April 15, 1879 (6 *id.* 45); May 24, 1879 (6 *id.* 60). *General Cir.*, Sept. 1, 1879, p. 11, *et seq.* Rule 24, G. L. O. Rep. 1877, p. 101.

When rights in-
ure to the benefit
of infant children.

SEC. 217. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

14 Stat. 67; R. S. 2292. *Fuller v. Hunt*, S. C. Iowa, 1877; *Railway Co. v. Gordon*, S. C. Mich. 1879. Decisions Sec. Int., April 9, 1877 (4 Copp's L. O. 19); Nov. 6, 1878 (5 *id.* 165). Decisions Com. G. L. O., Aug. 6, 1875 (2 Copp's L. O. 99); Aug. 12, 1875 (2 *id.* 99); Oct. 13, 1876 (3 *id.* 114); May 24, 1877 (4 *id.* 57); Dec. 8, 1877; Feb. 4, 1879 (5 Copp's L. O. 179); Jan. 24, 1880 (6 *id.* 180). Cir. G. L. O., Oct. 30, 1862 (*Zab. L. L.* 147, 151). General Cir., Sept. 1, 1879, p. 13.

Homestead en-
tries of insane
persons confirm-
ed in certain
cases.

SEC. 218. In all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane; and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards insane persons.

21 Stat. 166. Decisions Com. G. L. O., March 11, 1874 (1 Copp's L. O. 19); Nov. 14, 1878 (5 *id.* 165). Cir. G. L. O., July 17, 1880 (7 Copp's L. O. 89).

Persons in mil-
itary or naval
service, when and
before whom to
make affidavit.

SEC. 219. In case of any person desirous of availing himself of the benefits of this chapter; but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing,

provided the application and affidavit are accompanied by the fee and commissions as required by law.

13 Stat. 35; R. S. 2293. Decisions Sec. Int., April 3, 1879 (6 Copp's L. O. 50). Decisions Com. G. L. O., Nov. 6, 1875 (2 Copp's L. O. 133); July 3, 1876 (3 *id.* 69); Feb. 3, 1880 (6 *id.* 190). Cir. G. L. O., April 18, 1864 (Zab. L. L. 155); Sept. 14, 1868 (*id.* 158); June 25, 1869 (Copp's L. L. 248).

SEC. 220. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

When persons may make affidavit before clerk of court.

13 Stat. 35; 18 *id.* 193; R. S. 2294. Decisions Com. G. L. O., March 31, 1874 (1 Copp's L. O. 19); May 7, 1874 (1 *id.* 139). Cir. G. L. O. (Zab. L. L. 151); April 18, 1864 (*id.* 155); Sept. 14, 1868 (*id.* 158); April 21, 1870 (Copp's L. L. 226); April 4, 1877 (4 Copp's L. O. 23); May 18, 1877 (4 *id.* 51); ———, 1878 (5 *id.* 118). General Cir., Sept. 1, 1879, p. 11.

SEC. 221. The register of the land office shall note all applications under the provisions of this chapter, on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Record of applications.

12 Stat. 393; R. S. 2295. Decisions Sec. Int., June 20, 1871 (1 Copp's L. O. 114); Sept. 16, 1874. Decision Com. G. L. O., July 11, 1871. Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147). General Cir., Sept. 1, 1879, p. 11.

SEC. 222. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

Homestead lands not to be subject to prior debts.

12 Stat. 393; R. S. 2296. *Seymour v. Saunders*, 4 Dillon, C. C. 437. *Russell v. Lowth*, 21 Minn. 167; *Cheeny v. White*, 5 Neb. 261; *Jones v. Yorkman*, 5 *id.* 265; *Bellinger v. White*, 5 *id.* 399; *McWilliams v. Bridges*, 7 *id.* 419; *Moore v. McIntosh*, 6 Kansas, 39; *Waters v. Voorhees*, 14 *id.* 328; *Kirkaldie v. Larrabee*, 31 Cal. 456; *Miller v. Little*, 47 *id.* 348; *Chant v. Reynolds*, 49 *id.* 213; *Fuller v. Hunt*, S. C. Iowa, 1877. Cir. G. L. O., Oct. 2, 1862 (Zab. L. L. 147, 151). General Cir., Sept. 1, 1879, p. 21.

SEC. 223. If, at any time after the filing of the affidavit, as required in section two hundred and thirteen, and before the expiration of the five years mentioned in section two hundred and sixteen, it is proved, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

When lands entered for homestead revert to Government.

12 Stat. 393; 18 *id.* 294; 19 *id.* 36; R. S. 2297. Decisions Sec. Int., Oct. 16, 1870; April 18, 1871 (Copp's L. L. 254); April 28, 1871 (1 Copp's L. O. 36); June 2, 1871 (Copp's L. L. 234); June 11, 1871

(*id.* 236); June 20, 1871 (1 Copp's L. O. 114); Aug. 14, 1872 (Copp's L. L. 253); Oct. 23, 1872 (*id.* 254); Dec. 10, 1872 (*id.* 258); Dec. 9, 1874 (1 Copp's L. O. 148); Dec. 11, 1874 (1 *id.* 148); Feb. 3, 1875; Aug. 5, 1875 (2 Copp's L. O. 83); Nov. 27, 1875 (2 *id.* 133); Dec. 4, 1875 (1 *id.* 131); April 11, 1876 (3 *id.* 19); May 8, 1876 (3 *id.* 21); Jan. 15, 1877 (3 *id.* 164); May 14, 1878. Decisions Com. G. L. O., Dec. 18, 1867 (Zab. L. L. 162); May 23, 1868 (*id.* 166); Aug. 6, 1868 (*id.* 167); July 11, 1871; March 11, 1874 (1 Copp's L. O. 19); April 15, 1874 (1 *id.* 20); July 25, 1874 (1 *id.* 92); Dec. 15, 1874 (Copp's L. L. 251); March 27, 1875 (2 Copp's L. O. 34); Dec. 8, 1875 (2 *id.* 148); Feb. 7, 1876 (3 *id.* 3); April 13, 1876 (3 *id.* 19); Oct. 18, 1876 (3 *id.* 142); May 28, 1877 (4 *id.* 51); July 6, 1877 (4 *id.* 168); Jan. 19, 1878 (6 *id.* 125); Nov. 1, 1878 (5 *id.* 147); June 7, 1879 (6 *id.* 153). Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147, 151); Sept. 14, 1868 (*id.* 158); June 25, 1869 (Copp's L. L. 248); Aug. 15, 1872 (1 Copp's L. O. 23); Nov. 15, 1873 (Copp's L. L. 250); July 9, 1874 (*id.* 259); Jan. 5, 1875 (*id.* 261); Jan. 8, 1878 (4 Copp's L. O. 167). General Cir., Sept. 1, 1879, p. 14. Rule 27, G. L. O. Rep. 1877, p. 101.

Publication of notice of contest in homestead cases.

SEC. 224. The notices of contest provided by law, under the homestead laws, shall be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land.

20 Stat. 91. Cir. G. L. O., June 12, 1878 (5 Copp's L. O. 101). General Cir., Sept. 1, 1879, p. 14.

Notice of intention to make final proof.

SEC. 225. Before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for homestead entries, such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established.

20 Stat. 472. Decisions Com. G. L. O., Aug. 1, 1879 (6 Copp's L. O. 93). Cir. G. L. O., April 15, 1879 (6 Copp's L. O. 45); Jan. 17, 1880 (6 *id.* 191). General Cir., Sept. 1, 1879, p. 12.

Publication of notice of entry.

SEC. 226. Upon the filing of the notice required by the preceding section, the register shall publish a notice that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days, the claimant shall be entitled to make proof in the manner provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

20 Stat. 472. General Cir. G. L. O., Sept. 1, 1879, p. 12.

Lands covered by relinquished homestead claims subject to entry at once.

SEC. 227. When a homestead claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

21 Stat. 140. Decisions Sec. Int., June 20, 1871 (1 Copp's L. O. 114); Nov. 6, 1878 (5 *id.* 165); Sept. 27, 1879 (6 *id.* 107); June 22, 1880 (7 *id.* 66). Decisions Com. G. L. O., July 11, 1871; March 27, 1875 (2 Copp's L. O. 34); Aug. 6, 1875 (2 *id.* 99); Aug. 12, 1875 (2 *id.* 99); Oct. 18, 1876 (3 *id.* 114); May 28, 1877 (4 *id.* 57); Dec. 8, 1877. Cir. G. L. O., June 25, 1869 (Copp's L. L. 248);

April 26, 1870 (*id.* 250); June 5, 1872 (*id.* 239); Jan. 8, 1878 (4 Copp's L. O. 167); May 25, 1880 (7 *id.* 52). General Cir., Sept. 1, 1879, p. 14.

SEC. 228. In all cases where any person has contested, Party contesting homestead entry to be allowed thirty days after notice of cancellation to make entry. paid the land office fees, and procured the cancellation of any homestead entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter such lands; and the register shall be entitled to a fee of one dollar for giving such notice, to be paid by the contestant, and not to be reported.

21 Stat. 140, 141. Decisions Sec. Int., June 20, 1871 (1 Copp's L. O. 114). Decisions Com. G. L. O., July 11, 1871; March 27, 1875 (2 Copp's L. O. 34). Cir. G. L. O., April 26, 1870 (Copp's L. O. 250); May 25, 1880 (7 Copp's L. O. 52). General Cir., Sept. 1, 1879, p. 14.

SEC. 229. No person shall be permitted to acquire title to Limitation of amount entered for homestead. more than one quarter-section under the provisions of this chapter.

12 Stat. 393; R. S. 2298. Decisions Sec. Int., May 19, 1874; Feb. 27, 1875 (2 Copp's L. O. 18); Aug. 25, 1875 (2 *id.* 83); Feb. 6, 1876 (1 *id.* 179); April 4, 1876 (3 *id.* 21); Sept. 4, 1878. Decisions Com. G. L. O., May 15, 1874 (1 Copp's L. O. 35); Sept. 26, 1874 (1 *id.* 99); June 12, 1876 (3 *id.* 69); Jan. 12, 1877 (4 *id.* 107); Dec. 5, 1878 (5 *id.* 147). Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147, 151). General Cir. Sept. 1, 1879, p. 15.

SEC. 230. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing pre-emption rights; and all persons who may have filed their applications for a pre-emption right prior to the twentieth day of May, eighteen hundred and sixty-two, shall be entitled to all the privileges of this chapter. Existing pre-emption rights not impaired.

12 Stat. 393; R. S. 2299. Decisions Sec. Int., June 19, 1872; Aug. 3, 1876 (3 Copp's L. O. 122); Sept. 16, 1879 (6 *id.* 103). Decisions Com. G. L. O., Feb. 5, 1873; Dec. 5, 1876 (3 Copp's L. O. 178). Cir. G. L. O. (Zab. L. L. 151).

SEC. 231. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of any actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years. What minors may have the privileges of this chapter.

12 Stat. 393; R. S. 2300. Decisions Com. G. L. O., June 23, 1870 (7 Copp's L. O. 25); Sept. 26, 1874 (1 *id.* 99).

SEC. 232. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section two hundred and twelve, from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights. Payment before expiration of five years; rights of applicant.

12 Stat. 393; R. S. 2301. Perry v. Ashby, 5 Neb. 291. Decisions Sec. Int., Nov. 3, 1871 (Copp's L. L. 245); Aug. 25, 1875 (2 Copp's L. O. 83); June 1, 1874 (1 *id.* 35). Decisions Com. G. L. O., April 13,

1874 (Copp's L. L. 229); April 19, 1874 (1 Copp's L. O. 84); May 15, 1874 (1 *id.* 35); July 15, 1876 (3 *id.* 70); Jan. 12, 1877 (4 *id.* 107); — (6 *id.* 153). Cir. G. L. O., Oct. 30, 1862 (Zab. L. L. 147, 151). General Cir., Sept. 1, 1879, p. 15.

No distinction on account of race or color, &c.

SEC. 233. No distinction shall be made in the construction or execution of this chapter, on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

14 Stat. 67; R. S. 2302.

What lands disposed of only as homesteads.

SEC. 234. [*All the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, shall be disposed of in no other manner than according to the terms and stipulations contained in the preceding provisions of this chapter.*—R. S. 2303.]

Disposition of lands in certain States.

Section two thousand three hundred and three of the Revised Statutes of the United States, confining the disposal of the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida to the provisions of the homestead law is hereby repealed: *Provided*, That the repeal of said section shall not have the effect to impair the right, complete or inchoate, of any homestead settler, and no land occupied by such settler at the time this act shall take effect, shall be subject to entry, pre-emption, or sale: *And provided*, That the public lands affected by this section, shall be offered at public sale, as soon as practicable from time to time, and according to the provisions of existing law, and shall not be subject to private entry until they are so offered.

14 Stat. 67; 19 *id.* 73, 377; R. S. 2303. Decisions Com. G. L. O., June 12, 1877 (4 Copp's L. O. 50). Cir. G. L. O., July 19, 1876 (3 Copp's L. O. 115).

Soldiers' and sailors' homesteads.

SEC. 235. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February thirteen, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter-section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filing his declaratory statement, within which to make his entry and commence his settlement and improvement.

17 Stat. 333; R. S. 2304. Decisions Sec. Int., Aug. 25, 1874 (1 Copp's L. O. 99); Sept. 23, 1874 (1 *id.* 99); April 6, 1876; May 27, 1876 (3 Copp's L. O. 53); Aug. 3, 1876 (3 *id.* 132); Nov. 27, 1876 (3 *id.* 164); Jan. 9, 1877 (3 *id.* 164); April 9, 1879; Jan. 3, 1880 (6 Copp's L. O.

190). Decisions Com. G. L. O., Feb. 5, 1873; Nov. 10, 1873 (Copp's L. L. 267); Jan. 2, 1874 (1 Copp's L. O. 3); April 14, 1874 (1 *id.* 20); Aug. 4, 1874; Sept. 25, 1874 (Copp's L. L. 246); Oct. 27, 1874; Nov. 27, 1874 (1 Copp's L. O. 163); Dec. 19, 1874 (Copp's L. L. 271); April 8, 1875 (2 Copp's L. O. 100); April 17, 1875 (2 *id.* 35); June 10, 1875 (3 *id.* 50); May 17, 1876 (3 *id.* 70); Jan. 29, 1877; July 25, 1877 (4 Copp's L. O. 107); Nov. 9, 1878 (5 *id.* 131); Dec. 2, 1878 (5 *id.* 147). Cir. G. L. O., Aug. 9, 1870 (Copp's L. L. 273); June 13, 1872 (*id.* 263); May 17, 1873 (*id.* 273); Sept. 4, 1876 (3 Copp's L. O. 115); Jan. 8, 1878 (4 *id.* 167). General Cir., Sept. 1, 1879, p. 17. Rule 25, G. L. O. Rep. 1877, p. 101.

SEC. 236. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

Deduction of military and naval service from time, &c.

17 Stat. 333; R. S. 2305. Decisions Sec. Int., Dec. 11, 1874 (1 Copp's L. O. 148); April 9, 1879; Jan. 3, 1880 (6 Copp's L. O. 190). Decisions Com. G. L. O., April 14, 1874 (1 Copp's L. O. 20); Aug. 22, 1874 (1 *id.* 84); Oct. 27, 1874; Dec. 4, 1877 (4 Copp's L. O. 146); Nov. 9, 1878 (5 *id.* 131). Cir. G. L. O., June 13, 1872 (Copp's L. L. 263); July 15, 1872 (*id.* 275); Feb. 3, 1873 (*id.* 276). General Cir., Sept. 1, 1879, p. 17.

SEC. 237. Every person entitled, under the provisions of section two hundred and thirty-five, to enter a homestead who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres.

Persons who have entered less than 160 acres, rights of.

17 Stat. 333; R. S. 2306. Decisions Sec. Int., Dec. 5, 1872 (Copp's L. L. 277); Aug. 25, 1874 (1 Copp's L. O. 99); Sept. 23, 1874 (1 *id.* 99); Feb. 27, 1875 (2 *id.* 18); Sept. 23, 1875 (2 *id.* 100); April 4, 1876 (3 *id.* 21); May 8, 1876 (3 *id.* 21); May 17, 1876 (3 *id.* 22); May 27, 1876 (3 *id.* 53); June 10, 1876 (3 *id.* 52); July 10, 1876 (3 *id.* 52); Nov. 27, 1876 (3 *id.* 164); Feb. 6, 1878 (4 *id.* 179); April 9, 1879; Sept. 18, 1879 (6 Copp's L. O. 106); Sept. 27, 1879 (3 *id.* 107); Jan. 3, 1880 (6 *id.* 190); March 30, 1880 (7 *id.* 67). Decisions Com. G. L. O., April 27, 1874 (1 Copp's L. O. 35); May 14, 1874 (1 *id.* 163); Oct. 5, 1874 (1 *id.* 114); Oct. 27, 1874; Dec. 10, 1874 (1 Copp's L. O. 163); June 4, 1875 (2 *id.* 50); July 17, 1875 (2 *id.* 82); July 31, 1875; Sept. 27, 1875 (2 Copp's L. O. 99); Nov. 9, 1878 (5 *id.* 131); Dec. 2, 1878 (5 *id.* 147); Dec. 5, 1878 (5 *id.* 147); Aug. 18, 1879 (6 *id.* 106); June 4, 1880 (7 *id.* 87). Cir. G. L. O., June 13, 1872 (Copp's L. L. 263); Feb. 5, 1873 (*id.* 276); March 28, 1873 (*id.* 277); Nov. 3, 1873 (*id.* 278); Aug. 5, 1874 (*id.* 279); May 22, 1876 (3 Copp's L. O. 52); May 17, 1877 (4 *id.* 37); ———, 1878 (5 *id.* 118). General Cir., Sept. 1, 1879, p. 19; Sept. 1, 1879 (6 Copp's L. O. 106).

SEC. 238. In case of the death of any person who would be entitled to a homestead under the provisions of section two hundred and thirty-five, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, sub-

Widow and minor children of persons entitled to homestead, &c.

ject to all the provisions as to settlement and improvements therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

17 Stat. 333; R. S. 2307. *Jarvis v. Hoffman*, 43 Cal. 314; *Chant v. Reynolds*, 49 *id.* 213; *Perry v. Ashby*, 5 Neb. 291. Decisions Com. G. L. O., April 13, 1864; April 14, 1874 (1 Copp's L. O. 20); July 29, 1874 (Copp's L. L. 271); Aug. 4, 1874; Sept. 25, 1874 (Copp's L. L. 246); Nov. 27, 1874 (1 Copp's L. O. 163); Dec. 15, 1874 (Copp's L. L. 272); July 31, 1875; June 12, 1876 (3 Copp's L. O. 69); Jan. 29, 1877; April 9, 1877 (4 Copp's L. O. 33); Dec. 4, 1877 (4 *id.* 146); Nov. 9, 1878 (5 *id.* 131); Dec. 5, 1878 (5 *id.* 147); April 8, 1880 (7 *id.* 24). Cir. G. L. O., June 13, 1872 (Copp's L. L. 263). General Cir., Sept. 1, 1879, pp. 16, 20.

Actual service
in the Army or
Navy equivalent
to residence, &c.

SEC. 239. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

17 Stat. 333; R. S. 2308. Decision Sec. Int., April 9, 1879. Decisions Com. G. L. O., Feb. 3, 1880 (6 Copp's L. O. 190). Cir. G. L. O., June 13, 1872 (Copp's L. L. 263).

Who may enter
by agent.

SEC. 240. Every soldier, sailor, marine, officer, or other person coming within the provisions of section two hundred and thirty-five, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

17 Stat. 334; R. S. 2309. Decisions Sec. Int., April 6, 1876; May 17, 1876 (3 Copp's L. O. 22); May 27, 1876 (3 *id.* 53); Aug. 3, 1876 (3 *id.* 122); April 19, 1879; Sept. 27, 1879 (6 Copp's L. O. 107). Decisions Com. G. L. O., April 14, 1874 (1 Copp's L. O. 25); Aug. 14, 1874; Nov. 27, 1874 (1 Copp's L. O. 163); April 15, 1875 (2 *id.* 34); July 31, 1875; Jan. 29, 1877; July 25, 1877 (4 Copp's L. O. 107); Aug. 6, 1879 (6 *id.* 93). Cir. G. L. O., June 13, 1872 (Copp's L. L. 263); May 17, 1873 (*id.* 273); Aug. 5, 1877 (*id.* 279); May 22, 1876 (3 Copp's L. O. 52); Sept. 14, 1876 (3 *id.* 115); May 17, 1877 (4 *id.* 37); July 8, 1878 (4 *id.* 167). General Cir., Sept. 1, 1879, p. 19. Rules 24 and 25, G. L. O. Rep. 1877, p. 101.

Homestead right
extended to Indi-
ans who sever
their tribal rela-
tions.

SEC. 241. Any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of

the act entitled "An act to secure homesteads to actual settlers on the public domain", approved May twenty, eighteen hundred and sixty-two, and the acts amendatory thereof, except that the provisions of the eighth section of said act shall not be held to apply to entries made under this section. The title to lands acquired by any Indian under this section shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall remain inalienable for a period of five years from the date of the patent issued therefor. Any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

18 Stat. 420. Cir. G. L. O., March 25, 1875 (Copp's L. L. 384).
General Cir., Sept. 1, 1879, p. 20.

SEC. 242. In all cases in which Indians have heretofore entered public lands under the homestead law, and have proceeded in accordance with the regulations prescribed by the Commissioner of the General Land Office, or in which they may hereafter be allowed to so enter under said regulations prior to the promulgation of regulations to be established by the Secretary of the Interior under the preceding section, and in which the conditions prescribed by law have been or may be complied with, the entries so allowed are hereby confirmed, and patents shall issue thereon; subject, however, to the restrictions and limitations contained in the preceding section in regard to alienation and incumbrance.

Certain Indian homesteads confirmed.

18 Stat. 420. Cir. G. L. O., March 25, 1875 (Copp's L. L. 284).
General Cir., Sept. 1, 1879, p. 20.

SEC. 243. Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians, residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

Chiefs, &c., of Stockbridge Munsees, homestead rights of.

13 Stat. 562; R. S. 2310. Decision Sec. Int., Feb. 11, 1870 (Copp's L. L. 283). Cir. G. L. O., April 1, 1870 (Copp's L. L. 283).

SEC. 244. The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section.

Exemption of homestead of Stock-bridge Munsees.

13 Stat. 562; R. S. 2311.

SEC. 245. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section two hundred and forty-three, having filed with the clerk of the district court of the United States a declaration of his intention to

Stockbridge Munsees becoming citizens.

become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

13 Stat. 562; R. S. 2312. Decision Sec. Int., Feb. 11, 1870 (Copp's L. L. 283). Decision Com. G. L. O., April 1, 1870 (Copp's L. L. 283).

Unsold lands of the Ottawa and Chippewa Indians, now opened for homesteads.

SEC. 246. The unoccupied lands in the reservation made for the Ottawa and Chippewa Indians, of Michigan, by the treaty of July thirty-one, eighteen hundred and fifty-five, shall be open to homestead entry for six months from the tenth day of June, eighteen hundred and seventy-two, by Indians only of those tribes, who have not made selections or purchases under the treaty, including such members of the tribes as have become of age since the expiration of the ten years named in the treaty; and every Indian so entitled shall be permitted to make his homestead entry, at the local land office, within such six months, of not exceeding one hundred and sixty acres, or one quarter-section of minimum, or eighty acres of double-minimum land, on making proper proof of his right, under such rules as may be prescribed by the Secretary of the Interior.

17 Stat. 381; 18 *id.* 516; 19 *id.* 55; R. S. 2313.

Selections for minors under preceding section.

SEC. 247. The collector of customs for the district in which such land is situated, is authorized, and it is made his duty, to select for such minor children as would be entitled, under the preceding section, as the heirs of any Indian.

17 Stat. 381; 18 *id.* 516; 19 *id.* 55; R. S. 2314.

Bona-fide settlers on above lands prior to, &c.

SEC. 248. All actual, permanent, bona-fide settlers on any of such lands who settled prior to the first day of January, eighteen hundred and seventy-two, shall be entitled to enter either under the homestead laws or to pay for at the minimum or double-minimum price, as the case may be, not exceeding one hundred and sixty acres of the former or eighty acres of the latter class of land, on making proof of his settlement and continued residence before the expiration of six months from the tenth day of June, eighteen hundred and seventy-two.

17 Stat. 381; 18 *id.* 516; 19 *id.* 55; R. S. 2315.

Certain lands to be patented to Indians making selection.

SEC. 249. All selections of such lands by Indians heretofore made and regularly reported and recognized as valid and proper by the Secretary of the Interior and Commis-

sioner of Indian Affairs, shall be patented to the respective Indians making the same; and all sales heretofore made and reported, where the same are regular and not in conflict with such selections, or with any other valid adverse right, except of the United States, are confirmed, and patents shall issue thereon as in other cases according to law.

17 Stat. 381; 18 *id.* 516; 19 *id.* 55; R. S. 2316.

SEC. 250. Every person having a homestead on the public domain, under the provisions of this chapter, who, at the end of the third year of his residence thereon, shall have had under cultivation, for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good, thrifty condition, for each and every sixteen acres of such homestead, shall, upon due proof of the fact by two credible witnesses, receive his patent for such homestead.

Cultivation of trees on homestead tracts.

17 Stat. 606; 18 *id.* 21, 481, 516; 19 *id.* 54; R. S. 2317. Cir. G. L. O., Oct. 30, 1873 (Copp's L. L. 646).

SEC. 251. From and after March three, eighteen hundred and seventy-nine, the even sections within the limits of any grant of public lands to any railroad company, or to any military-road company, or to any State in aid of any railroad or military-road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military-road land grant, and who, by existing laws, shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or, if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this section until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Entry of 160 acres of double-minimum lands allowed after March 3, 1879. Additional entry of adjoining lands allowed. New entry, when allowed.

Proviso.

20 Stat. 472. Decisions Sec. Int., Sept. 23, 1875 (2 Copp's L. O. 100); Sept. 27, 1879 (6 *id.* 107). Decisions Com. G. L. O., July 30, 1879 (6 Copp's L. O. 106); April 22, 1880 (7 *id.* 125). Cir. G. L. O., March 24, 1879 (6 Copp's L. O. 28); May 21, 1879 (6 *id.* 138); Sept. 20, 1879 (6 *id.* 124). General Cir., Sept. 1, 1879, pp. 10, 15.

SEC. 252. Persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the right of those having so entered for homesteads may have been attempted to be

Homestead claimants or their assignees may purchase lands at \$1.25 per acre in certain cases.

transferred by bona-fide instrument in writing, may entitle themselves to said lands by paying the Government price therefor, and in no case less than one dollar and twenty-five cents per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

Proviso.

21 Stat. 237, 238. Decision Sec. Int., Sept. 23, 1875 (2 Copp's L. O. 100). Decision Com. G. L. O. (6 Copp's L. O. 189). Cir. G. L. O., July 17, 1880 (7 Copp's L. O. 89).

Confirmation of homestead entries within railroad limits made prior to receipt of notice of withdrawal at local office.

SEC. 253. All homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the General Land Office, and where the homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patents for the same shall issue to the parties entitled thereto.

19 Stat. 35, 36. Op. Att. Gen. Aug. 4, 1876, in manuscript. Cir. G. L. O., Aug. 14, 1876 (3 Copp's L. O. 119).

Lands within railroad grants re-entered by claimants after abandonment.

SEC. 254. When at the time of such withdrawal, as stated in the preceding section, valid homestead claims existed upon any lands within the limits of any such grants which afterwards were abandoned, and, under the decisions and rulings of the Land Department, were re entered by homestead claimants who have complied with the laws governing homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

19 Stat. 35, 36. Decision Sec. Int., April 28, 1871 (1 Copp's L. O. 36)

Homestead entries made after expiration of land grant confirmed.

SEC. 255. All such homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such a claim to a patent therefor.

19 Stat. 35, 36.

NOTE.—See section 210 for authority of homestead claimants to convey lands for church, cemetery, and school purposes, and for right of way for railroads.

CHAPTER NINE.

TIMBER AND TIMBER CULTURE.

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| <p>Sec.
 256. Timber on mineral lands may be taken for certain purposes. Permission to take not extended to railroad companies.
 257. Duty of register and receiver to report unauthorized taking.
 258. Penalty for unauthorized taking.
 259. Timber and stone lands in California, Oregon, &c., to be sold.
 260. Application for purchase. False swearing.
 261. Publication of application. Facts to be proved. Objections to patent.
 262. Cutting timber unlawfully; penalty.
 263. Certain prosecutions, relief from.
 264. Repeals.
 265. Live-oak and red-cedar lands.
 266. Selection of live-oak and red-cedar tracts.
 267. Protection of live-oak and red-cedar timber.
 268. Cutting or destruction of live-oak or red-cedar; penalty.
 269. Vessels employed in carrying away live-oak and red-cedar; forfeiture of.
 270. Clearance of vessels; laden with live-oak; prosecution of depredators.
 271. Secretary of Navy to ascertain what reserved lands not required for naval purposes.
 272. Lands not required, to be certified to Secretary of Interior and thereafter to be subject to entry and sale. Preference right of purchase for certain parties.</p> | <p>Sec.
 273. Cutting or injuring trees on lands of United States reserved or purchased for public uses; punishment.
 274. Authority to condone trespasses committed prior to March 1, 1879.
 275. Timber-culture entries. Patents to issue for lands cultivated in timber at expiration of eight years. Only one-quarter of a section to be entered, and but one entry allowed.
 276. Oath on application for entry.
 277. Number of acres to be broken and planted annually. Time extended in case of destruction by grasshoppers or drought.
 278. Proof of cultivation, final certificate, and patent.
 279. Right to be forfeited on failure to comply with the law.
 280. Land not liable for prior debts.
 281. Commissioner to make regulations. Fees of registers and receivers.
 282. False oath constitutes perjury.
 283. Entries under former laws, how perfected.
 284. Publication of notice of contest.
 285. Lands relinquished by timber-culture claimants, subject to re-entry at once.
 286. Contestants of timber-culture entries allowed thirty days after notice of cancellation to make entry.</p> |
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SEC. 256. All citizens of the United States and other persons, bona-fide residents of the State of Colorado, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time bona-fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other

Timber on mineral lands may be taken for certain purposes.

Permission to purposes: *Provided*, That the foregoing provisions shall not
 so take not extend to railroad corporations.
 extend to railroad companies.

20 Stat. 88. U. S. v. Nelson, 5 Saw. C. C. 68. 1 Op. Att. Gen. 471,
 475. Rogers v. Soggs, 22 Cal. 444. Cir. G. L. O., Aug. 15, 1878 (6
 Copp's L. O. 21).

Duty of register
 and receiver to
 report upon un-
 authorized tak-
 ing.

SEC. 257. It shall be the duty of the register and the receiver
 of any local land office in whose district any mineral land
 may be situated to ascertain from time to time whether any
 timber is being cut or used upon any such lands, except for
 the purposes authorized in the preceding section, within
 their respective land districts; and, if so, they shall imme-
 diately notify the Commissioner of the General Land Office
 of that fact; and all necessary expenses incurred in making
 such proper examinations shall be paid and allowed such
 register and receiver in making up their next quarterly
 accounts.

20 Stat. 88. Cir. G. L. O., Aug. 15, 1878 (6 Copp's L. O. 21).

Penalty for un-
 authorized tak-
 ing.

SEC. 258. Any person or persons, who shall violate the
 provisions of the two next preceding sections, or any rules
 and regulations in pursuance thereof made by the Secretary
 of the Interior, shall be deemed guilty of a misdemeanor,
 and, upon conviction, shall be fined in any sum not exceed-
 ing five hundred dollars, and to which may be added im-
 prisonment for any term not exceeding six months.

20 Stat. 89. Cotton v. U. S., 11 How. 229; Hutchins v. King, 1 Wall.
 53; Schulenberg v. Harriman, 21 *id.* 44. U. S. v. Nelson, 5 Saw.
 C. C. 68. 1 Op. Att. Gen. 194, 471, 475. Cir. G. L. O., Aug. 15, 1878
 (6 Copp's L. O. 21).

Timber and
 stone lands in
 California, Ore-
 gon, &c., to be
 sold.

SEC. 259. Surveyed public lands of the United States
 within the States of California, Oregon and Nevada and in
 Washington Territory, not included within military, Indian,
 or other reservations of the United States, valuable chiefly
 for timber, but unfit for cultivation, and which have not
 been offered at public sale according to law, may be sold to
 citizens of the United States, or persons who have declared
 their intention to become such, in quantities not exceeding
 one hundred and sixty acres to any one person or associa-
 tion of persons, at the minimum price of two dollars and
 fifty cents per acre; and lands valuable chiefly for stone
 may be sold on the same terms as timber lands: *Provided*,
 That nothing herein contained shall defeat or impair any
 bona-fide claim under any law of the United States, or au-
 thorize the sale of any mining claim, or the improvements
 of any bona-fide settler, or lands containing gold, silver,
 cinnabar, copper, or coal, or lands selected by the said States
 under any law of the United States donating lands for in-
 ternal improvements, education, or other purposes: *And*
provided further, That none of the rights conferred by the
 act approved July twenty-sixth, eighteen hundred and sixty-
 six, entitled "An act granting the right of way to ditch and
 canal owners over the public lands, and for other purposes,"
 shall be abrogated by this act; and all patents granted shall
 be subject to any vested and accrued water rights, or rights
 to ditches and reservoirs used in connection with such water
 rights, as may have been acquired under and by the pro-

Provide.

visions of said act; and such rights shall be expressly reserved in any patent issued under this act.

14 Stat. 251; 20 *id.* 89; R. S. 2339, 2340, 2341. *McFarland v. Culbertson*, 2 Nev. 280; *Peck v. Brown*, 5 *id.* 81; *Eureka Mg. Co. v. Way*, 11 *id.* 171. Decision Com. G. L. O., June 6, 1874 (1 Copp's L. O. 58). Cir. G. L. O., May 1, 1880 (7 Copp's L. O. 26).

SEC. 260. Any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, shall be null and void.

Application for purchase.

False swearing in application.

20 Stat. 89. Cir. G. O. L., May 1, 1880 (7 Copp's L. O. 26).

SEC. 261. Upon the filing of said statement, as provided in the preceding section, the register of the land office, shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase money of said land, together with the fees of the

Publication of application.

Facts to be proved.

Objection to
patent.

register and the receiver, as provided for in case of mining claims in the one hundred and thirty-seventh section, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

17 Stat. 95; 20 *id.* 89. R. S. 2238. *McFarland v. Culbertson*, 2 Nev. 280; *Peck v. Brown*, 5 *id.* 81. Cir. G. L. O., May 1, 1880 (7 Copp's L. O. 26).

Cutting timber
unlawfully.

SEC. 262. After the passage of this act it shall be unlawful to cut, or cause or procure to be cut, or wantonly destroy, any timber growing on any lands of the United States, in said States and Territory, or remove, or cause to be removed, any timber from said public lands, with intent to export or dispose of the same; and no owner, master, or consignee of any vessel, or owner, director, or agent of any railroad, shall knowingly transport the same, or any lumber manufactured therefrom; and any person violating the provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined for every such offense a sum not less than one hundred nor more than one thousand dollars: *Provided*, That nothing herein contained shall prevent any miner or agriculturalist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; and the penalties herein provided shall not take effect until ninety days after the passage of this act.

Penalty.

Proviso.

20 Stat. 90. *Cotton v. U. S.*, 11 How. 229. *U. S. v. McEntee*, U. S. Dist. Ct. Minn., Oct. 1877. Decision Com. G. L. O., Dec. 11, 1878, (6 Copp's L. O. 76). Cir. G. L. O., Aug. 15, 1878 (6 Copp's L. O. 21); May 1, 1880 (7 *id.* 26).

Certain prosecutions, relief
from.

SEC. 263. Any person prosecuted in said States and Territory for violating section two hundred and sixty-eight, who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section four thousand seven hun-

Proviso.

dred and fifty-one of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named.

20 Stat. 90, 91. U. S. v. Nelson, 5 Saw. C. C. 68. Cir. G. L. O., Aug. 15, 1878 (6 Coppy's L. O. 21).

SEC. 264. All acts and parts of acts inconsistent with the provisions of the five preceding sections are repealed. Repeals.

20 Stat. 90, 91.

SEC. 265. The Secretary of the Navy is authorized, under the direction of the President, to cause such vacant and unappropriated lands of the United States as produce the live-oak and red-cedar timbers to be explored, and selection to be made of such tracts or portions thereof, where the principal growth is of either of such timbers, as in his judgment may be necessary to furnish for the Navy a sufficient supply of the same. Live-oak and red-cedar lands.

3 Stat. 347, 607; 4 *id.* 242; R. S. 2458. U. S. v. Briggs, 9 How. 351. Cir. G. L. O., Aug. 8, 1831, (2 Laws, Instructions, and Opinions, 455).

SEC. 266. The President is authorized to appoint surveyors of public lands, who shall perform the duties prescribed in the preceding section, and report to him the tracts by them selected, with the boundaries ascertained and accurately designated by actual survey or water-courses; and the tracts of land thus selected with the approbation of the President shall be reserved, unless otherwise directed by law, from any future sale of the public lands, and be appropriated to the sole purpose of supplying timber for the Navy of the United States; but nothing in this section contained shall be construed to prejudice the prior rights of any person claiming lands, which may be reserved in the manner herein provided. Selection of live-oak and red-cedar tracts.

3 Stat. 347; R. S. 2459. U. S. v. Briggs, 9 How. 351. 2 Op. Att. Gen. 524. Cir. G. L. O., Aug. 8, 1831 (2 Laws, Instructions, and Opinions, 455).

SEC. 267. The President is authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of the timber of the United States in Florida, and to prevent the transportation or carrying away any such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida. Protection of live-oak and red-cedar timber.

3 Stat. 651; R. S. 2460. *Schulenberg v. Harriman*, 21 Wall. 44.

SEC. 268. If any person shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting, or shall wantonly destroy, or cause or procure to be wantonly destroyed, or aid, assist, or be employed in wantonly destroying any live-oak or red-cedar trees, or other timber standing, growing, or being on any lands of the United States, which, in pursuance of any law passed, or hereafter to be passed, have been reserved or purchased for the use of the United States, for supplying or furnishing therefrom timber for the Navy of the United States; or if any person shall remove, or cause or procure to be removed, or aid, or assist, or be Cutting or destruction of live-oak or red-cedar, penalty.

employed in removing from any such lands which have been reserved or purchased, any live-oak or red-cedar trees, or other timber, unless duly authorized so to do, by order, in writing, of a competent officer, and for the use of the Navy of the United States; or if any person shall cut, or cause or procure to be cut, or aid, or assist, or be employed in cutting any live-oak or red-cedar trees, or other timber on, or shall remove, or cause or procure to be removed, or aid, or assist, or be employed in removing any live-oak or red cedar trees or other timber, from any other lands of the United States, acquired or hereafter to be acquired, with intent to export, dispose of, use, or employ the same in any manner whatsoever, other than for the use of the Navy of the United States; every such person shall pay a fine not less than triple the value of the trees or timber so cut, destroyed, or removed, and shall be imprisoned not exceeding twelve months.

4 Stat. 472; R. S. 2461. U. S. v. Briggs, 9 How. 351; Cotton v. U. S., 11 *id.* 229; Hutchins v. King, 1 Wall. 53; Schulenberg v. Hariman, 21 *id.* 44. U. S. v. McEntee, U. S. Dist. Ct. Minn., Oct. 1877, in manuscript; U. S. v. Nelson, 5 Saw. C. C. 68. Kansas v. Harold, 9 Kansas, 194; Stevens v. Perrier, 12 *id.* 297; James v. Snellson, 3 Mo. 278; Turley v. Tucker, 6 *id.* 583; Bower v. Higbee, 9 *id.* 259; Keeton v. Audsley, 19 *id.* 362; Woodruff v. Roberts, 4 La. Ann. 127; Lovett v. Noble, 1 Scamm. (Ills.) 185 (11 Ills. 529); Winchester v. Schrewsbury, 2 Scamm. (Ills.) 284; Rogers v. Soggs, 22 Cal. 444. 1 Op. Att. Gen. 194, 471, 475; 2 *id.* 524. Decisions Sec. Int., Dec. 26, 1854 (1 Lester's L. L. 629). Decisions Com. G. L. O., Sept. 1, 1865 (Zab. L. L. 891); June 29, 1874 (1 Copp's L. O. 102); Dec. 11, 1878 (6 *id.* 76). Cir. G. L. O., Dec. 24, 1855 (Zab. L. L. 888; Copp's L. L. 658; 1 Copp's L. O. 102); May 2, 1877 (4 Copp's L. O. 55); Aug. 15, 1878 (6 *id.* 21); June 27, 1879 (6 *id.* 59); May 1, 1880 (7 *id.* 26).

Vessels employed in carrying away live-oak and red-cedar; forfeiture of.

SEC. 269. If the master, owner, or consignee of any vessel shall knowingly take on board any timber cut on lands which have been reserved or purchased as in the preceding section prescribed, without proper authority, and for the use of the Navy of the United States; or shall take on board any live-oak or red-cedar timber cut on any other lands of the United States, with intent to transport the same to any port or place within the United States or to export the same to any foreign country, the vessel on board of which the same shall be taken, transported, or seized, shall, with her tackle, apparel, and furniture, be wholly forfeited to the United States, and the captain or master of such vessel wherein the same was exported to any foreign country against the provisions of this section shall forfeit and pay to the United States a sum not exceeding one thousand dollars.

4 Stat. 472; R. S. 2462. 4 Op. Att. Gen. 247, 339, 403.

Clearance of vessels laden with live-oak; prosecution of depredators.

SEC. 270. It shall be the duty of all collectors of the customs within the States of Alabama, Mississippi, Louisiana, and Florida, before allowing a clearance to any vessel laden in whole or in part with live-oak timber, to ascertain satisfactorily that such timber was cut from private lands, or, if from public ones, by consent of the Navy Department. And it is also made the duty of all officers of the customs, and of the land officers within those States, to cause prosecu-

tions to be seasonably instituted against all persons known to be guilty of depredations on, or injuries to, the live-oak growing on the public lands.

4 Stat. 647; R. S. 2463. 4 Op. Att. Gen. 403.

SEC. 271. The Secretary of the Navy is authorized to cause an examination to be made of the condition of all lands in the State of Florida which have been set apart or reserved for naval purposes, excepting the reservation upon which the navy-yard at Pensacola is located, and to ascertain whether or not such reserved lands are or will be of any value to the Government of the United States for naval purposes.

20 Stat. 470, 471.

SEC. 272. All of said lands which, in the judgment of the Secretary of the Navy, are no longer required for naval purposes shall, as soon as practicable, be certified by him to the Secretary of the Interior, and be subject to entry and sale in the same manner and under the same conditions as other public lands of the United States: *Provided*, That all persons who have, in good faith, made improvements on said reserved lands so certified on the third day of March, eighteen hundred and seventy-nine, and who occupy the same, shall be entitled to purchase the part or parts so occupied and improved by them, not to exceed one hundred and sixty acres to any one person at one dollar and twenty-five cents per acre within such reasonable time as may be fixed by the Secretary of the Interior.

20 Stat. 471.

SEC. 273. If any person or persons shall knowingly and unlawfully cut, or shall knowingly aid, assist, or be employed in unlawfully cutting, or shall wantonly destroy or injure, or procure to be wantonly destroyed or injured, any timber tree or any shade or ornamental tree, or any other kind of tree, standing, growing, or being upon any lands of the United States, which, in pursuance of law, have been reserved, or which have been purchased by the United States for any public use, every such person or persons so offending, on conviction thereof before any circuit or district court of the United States, shall, for every such offense, pay a fine not exceeding five hundred dollars, or shall be imprisoned not exceeding twelve months: *Provided*, That nothing in this section shall be construed to apply to unsurveyed public lands and to public lands subject to pre-emption and homestead laws, nor to public lands subject to an act to promote the development of the mining resources of the United States, approved May tenth, eighteen hundred and seventy-two.

18 Stat. 481, 492. U. S. v. Briggs, 9 How. 351; Cotton v. U. S., 11 id. 229; Hutchins v. King, 1 Wall. 53. 1 Op. Att. Gen. 194.

SEC. 274. When any lands of the United States, not mineral, shall have been entered and the Government price paid therefor in full, no criminal suit or proceeding by or in the name of the United States shall thereafter be had or further maintained for any trespasses upon or for or on

Secretary of Navy to ascertain what reserved lands not required for naval purposes.

Lands not required, to be certified to Secretary of Interior and thereafter to be subject to entry and sale.

Preference right of purchase for certain parties.

Cutting or injuring trees on lands of United States reserved or purchased for public uses.

Punishment. Proviso.

Authority to condone trespasses committed prior to March 1, 1879.

account of any material taken from said lands, and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any bona-fide settler, or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass, or for or on account of any timber taken or used without fraud or collusion by any person who, in good faith, paid the officers or agents of the United States for the same, or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed and conspiracies entered into prior to March first, eighteen hundred and seventy-nine: *And provided further*, That defendants in such suits or proceedings shall exhibit to the proper courts or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such entry.

Proviso.

Act of June 15, 1880. U. S. v. McEntee, U. S. Dist. Ct. Minn., Oct. 1877, in manuscript. Decision Com. G. L. O., June 29, 1874 (1 Copp's L. O. 152). Cir. G. L. O., July 17, 1880 (7 Copp's L. O. 89).

Timber-culture entries.
Patents to issue for land cultivated in timber at expiration of eight years.

SEC. 275. The act entitled "An act to amend the act entitled 'An act to encourage the growth of timber on western prairies,'" approved March thirteenth, eighteen hundred and seventy-four, is amended to read as follows: That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect, and keep in a healthy, growing condition for eight years ten acres of timber, on any quarter-section of any of the public lands of the United States, or five acres on any legal subdivision of eighty acres, or two and one-half acres on any legal subdivision of forty acres or less, shall be entitled to a patent for the whole of said quarter-section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible witnesses, and a full compliance of the further conditions as provided in the next section: *Provided*, That not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this law.

Only one quarter of a section to be entered, and but one entry allowed.

- 20 Stat. 113, 114, 115. Decisions Sec. Int., July 31, 1876 (3 Copp's L. O. 73); Aug. 3, 1876 (3 *id.* 122); Jan. 4, 1877 (3 *id.* 181); Sept. 24, 1877 (4 *id.* 134); Feb. 12, 1879 (6 *id.* 22); Aug. 23, 1879 (6 *id.* 113); Sept. 12, 1879; Dec. 4, 1879 (6 Copp's L. O. 153); April 30, 1880 (7 *id.* 39). Decisions Com. G. L. O., June 10, 1873 (Copp's L. L. 657); June 24, 1873 (*id.* 652); June 6, 1874 (*id.* 653; 1 Copp's L. O. 58); June 20, 1874 (Copp's L. L. 658); June 30, 1874 (*id.* 656); Aug. 4, 1874 (*id.* 654; 1 Copp's L. O. 92); Aug. 17, 1874 (1 Copp's L. O. 92); Oct. 23, 1874 (Copp's L. L. 655; 2 Copp's L. O. 39); Dec. 11, 1874 (6 Copp's L. O. 174); Aug. 16, 1875 (2 *id.* 86); March 27, 1876 (3 *id.* 3); June 30, 1876 (3 *id.* 73); July 6, 1876 (3 *id.* 71); July 6, 1876 (3 *id.* 71); July 17, 1876 (3 *id.* 72); Dec. 12, 1876 (3 *id.* 172); Jan.

27, 1877 (3 *id.* 179); April 9, 1877 (4 *id.* 162); July 25, 1877 (4 *id.* 85); Dec. 18, 1879 (6 *id.* 154); March 16, 1880 (7 *id.* 6); April 15, 1880 (7 *id.* 25); May 18, 1880 (7 *id.* 39). Cir. G. L. O., May 3, 1876 (3 Copp's L. O. 38); June 27, 1878 (5 *id.* 77); —, 1878 (5 *id.* 118). General Cir., Sept. 1, 1879, pp. 23, 26.

SEC. 276. The person applying for the benefits of this law shall, upon application to the register of the land district in which he or she is about to make such entry, make affidavit, before the register or the receiver, or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to wit: I, —, having filed my application, number —, for an entry under the provisions of an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the western prairies,'" approved —, 187—, do solemnly swear (or affirm) that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whatsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of the law; and that I have not heretofore made an entry under the timber-culture laws.

Oath on application for entry.

20 Stat. 113, 114, 115. Decisions Sec. Int., May 15, 1876 (3 Copp's L. O. 38); July 31, 1876 (3 *id.* 73); Jan. 4, 1877 (3 *id.* 181); Sept. 24, 1877 (4 *id.* 134); Sept. 12, 1879. Decisions Com. G. L. O., June 6, 1874 (Copp's L. L. 653; 1 Copp's L. O. 58); Aug. 6, 1874 (Copp's L. L. 654); Oct. 23, 1874 (*id.* 655; 2 Copp's L. L. 39); Dec. 11, 1874; Jan. 24, 1879; Dec. 18, 1879 (6 Copp's L. O. 154). Cir. G. L. O., Jan. 8, 1878 (4 Copp's L. O. 167); June 27, 1878 (5 *id.* 77); —, 1878 (5 *id.* 118). General Cir. G. L. O., Sept. 1, 1879, p. 25.

SEC. 277. Upon filing said affidavit with the register and receiver and on payment of ten dollars, if the tract applied for is more than eighty acres, and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter-section shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise the five acres broken the second year, and to plant in timber, seeds, or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds, or cuttings the remaining five acres. All entries of less quantity than one quarter-section shall be plowed, planted, cultivated and planted to trees, tree-seeds, or cuttings, in the same manner and in the same proportion as hereinbefore provided for a quarter-section: *Provided, however,* That in case such trees, seeds, or cuttings shall be destroyed by grasshoppers, or by extreme and unusual drouth for any year or term of

Number of acres to be broken and planted annually.

Time extended in case of destruction by grasshoppers or drouth.

years, the time for planting such trees, seeds, or cuttings shall be extended one year for every such year that they are so destroyed: *Provided, further*, That the person making such entry shall, before he or she shall be entitled to such extension of time, file with the register and the receiver of the proper land office an affidavit, corroborated by two witnesses, setting forth the destruction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this law.

20 Stat. 113, 114, 115. Decisions Sec. Int., May 17, 1876 (3 Copp's L. O. 38); Dec. 23, 1876 (3 *id.* 180); April 2, 1877 (4 *id.* 21); May 29, 1878 (5 *id.* 87); Dec. 4, 1879 (6 *id.* 153); April 30, 1880 (7 *id.* 39); May 31, 1880 (7 *id.* 39). Decisions Com. G. L. O., June 24, 1873 (Copp's L. L. 652); July 25, 1874 (*id.* 653); 1 Copp's L. O. 92); Aug. 4, 1874 (Copp's L. L. 654); Dec. 11, 1874; Jan. 21, 1875 (1 Copp's L. O. 171); Feb. 11, 1875 (Copp's L. L. 654; 1 Copp's L. O. 181); June 28, 1875 (2 Copp's L. O. 54); July 1, 1875 (2 *id.* 54); Sept. 27, 1875 (2 *id.* 100); Dec. 3, 1875 (2 *id.* 133); July 6, 1876 (3 *id.* 72); July 17, 1876 (3 *id.* 71); April 9, 1877 (4 *id.* 162); July 18, 1877 (4 *id.* 162); July 24, 1877 (4 *id.* 85); Jan. 21, 1879; May 18, 1880 (7 Copp's L. O. 39). Cir. G. L. O., April 6, 1874 (Copp's L. L. 649; 1 Copp's L. O. 26). General Cir. G. L. O., Sept. 1, 1879, pp. 25, 27.

Proof of cultivation, final certificate, and patent.

SEC. 278. No final certificate shall be given, or patent issued, for the land so entered until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre and that at the time of making such proof that there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

20 Stat. 113, 114, 115. Decisions Sec. Int., Dec. 23, 1876 (3 Copp's L. O. 180); Nov. 14, 1877 (4 *id.* 134); Dec. 22, 1877 (5 *id.* 21); Sept. 17, 1878 (5 *id.* 119); April 30, 1880 (7 *id.* 39). Decisions Com. G. L. O., June 24, 1873 (Copp's L. L. 652); Feb. 11, 1875 (*id.* 654); March 11, 1875 (*id.* 655); March 23, 1875 (*id.* 656); June 28, 1875 (2 Copp's L. O. 54); July 1, 1875 (2 *id.* 54); Sept. 2, 1875 (2 *id.* 117); Dec. 3, 1875 (2 *id.* 134); March 10, 1877 (4 *id.* 162); Jan. 8, 1878 (4 *id.* 167); May 18, 1880 (7 *id.* 39). Cir. G. L. O., June 27, 1878 (5 Copp's L. O. 77). General Cir. G. L. O., Sept. 1, 1879, p. 24.

Right to be forfeited on failure to comply with the law.

Proviso.

SEC. 279. If at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this law, then and in that event such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this law: *Provided*, That the party making claim to said land, either as a homestead settler, or under this law, shall give at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land Office; and the rights of the parties shall be determined as in other contested cases.

20 Stat. 113, 114, 115. Decisions Sec. Int., March 19, 1877 (4 Copp's L. O. 21); May 28, 1877 (4 *id.* 54); Sept. 17, 1878 (5 *id.* 119); Aug. 23,

1879 (6 *id.* 113); March 4, 1880 (7 *id.* 39); May 31, 1880 (7 *id.* 39). Decisions Com. G. L. O., June 30, 1874 (Copp's L. L. 656); Dec. 11, 1874 (6 Copp's L. O. 174); March 11, 1875 (Copp's L. L. 655); March 23, 1875 (*id.* 655); March 25, 1875 (*id.* 657); Oct. 30, 1875 (2 Copp's L. O. 117); Feb. 18, 1876 (2 *id.* 180); May 11, 1876 (3 *id.* 22); July 20, 1876 (3 *id.* 72); March 30, 1877 (4 *id.* 76); July 13, 1877 (4 *id.* 77); Dec. 4, 1877 (4 *id.* 149); Nov. 1, 1878 (5 *id.* 147); March 4, 1879 (6 *id.* 126); Oct. 22, 1879; Feb. 17, 1880; April 15, 1880 (7 Copp's L. O. 25). Cir. G. L. O., Dec. 23, 1877 (4 *id.* 166); June 27, 1878 (5 *id.* 77); —, 1878 (5 *id.* 118). General Cir. G. L. O., Sept. 1, 1879, pp. 25, 27.

SEC. 280. No land acquired under the provisions of this law shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor. Land not liable for prior debts.

20 Stat. 113, 114, 115. Cir. G. L. O., June 27, 1878 (5 Copp's L. O. 77). General Cir. G. L. O., Sept. 1, 1879, p. 25.

SEC. 281. The Commissioner of the General Land Office is required to prepare and issue such rules and regulations, consistent with this law, as shall be necessary and proper to carry its provisions into effect; and the registers and receivers of the several land offices shall each be entitled to receive two dollars at the time of entry, and the like sum when the claim is finally established and the final certificate issued. Commissioner to make regulations.
Fees of registers and receivers.

20 Stat. 113, 114, 115.

SEC. 282. The fifth section of the act entitled "An act in addition to an act to punish crimes against the United States, and for other purposes", approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act. False oath constitutes perjury.

11 Stat. 250; 20 *id.* 113, 114, 115; R. S. 5392. Cir. G. L. O., June 27, 1878 (5 Copp's L. O. 77). General Cir. G. L. O., Sept. 1, 1879, p. 26.

SEC. 283. Parties who have already made entries under the acts approved March third, eighteen hundred and seventy-three, and March thirteenth, eighteen hundred and seventy-four, shall be permitted to complete the same upon full compliance with the provisions of this chapter; that is, they shall, at the time of making their final proof, have had under cultivation, as required by this chapter, an amount of timber sufficient to make the number of acres required by this chapter; and all laws and parts of laws in conflict with the provisions of this chapter are hereby repealed. Entries under former laws, how perfected.

17 Stat. 605; 18 *id.* 21; 20 *id.* 113, 114, 115. Decision Sec. Int., March 17, 1879 (6 Copp's L. O. 21.) Decisions Com. G. L. O., Feb. 14, 1879 (6 Copp's L. O. 22); April 1, 1879 (6 *id.* 126). Cir. G. L. O., June 27, 1878 (5 Copp's L. O. 77). General Cir. G. L. O., Sept. 1, 1879, p. 24.

SEC. 284. The notices of contest provided by law under the tree-culture laws shall be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land. Publication of notices of contest.

20 Stat. 91. Cir. G. L. O., June 12, 1878 (5 Copp's L. O. 101).

SEC. 285. When any timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement. Lands relinquished by timber-culture claimants subject to entry at once.

ment and entry without further action on the part of the Commissioner of the General Land Office.

Act of May 14, 1880. Decisions Com. G. L. O., Nov. 5, 1875 (2 Copp's L. O. 133); July 18, 1877; Aug. 18, 1877 (4 *id.* 85); Nov. 1, 1878 (5 *id.* 147); March 3, 1880.

Contestant of
timber-culture
entry allowed 30
days after notice
of cancellation to
make entry.

SEC. 286. In all cases where any person has contested, paid the land office fees, and procured the cancellation of any timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands; and the register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

Act of May 14, 1880. Decisions Sec. Int., March 29, 1877 (3 Copp's L. O. 21); May 28, 1877 (3 *id.* 54).

NOTE.—The following acts authorizing settlers upon the public lands under the pre-emption, homestead, and timber-culture laws, whose crops were destroyed by grasshoppers, to absent themselves temporarily from their lands, and extending the time for making final proof, have been passed from time to time by Congress, viz: 18 Stat. 81; 19 *id.* 54, 55, 59, 405; 20 *id.* 88, 169; act of June 4, 1880.

CHAPTER TEN.

TOWN SITES AND COUNTY SEATS.

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| <p>Sec.
287. Town sites to be reserved.
288. Reservations to be surveyed into lots.
289. Town or city sites on public lands.
290. When towns established upon unsurveyed lands, extension limits, how adjusted.
291. When transcript maps of town are not filed in twelve months, proceedings by Secretary of Interior.
292. Where size of lots or town plat vary from general rule.
293. Title to lots subject to mineral rights.
294. Entry of town authorities in trust for occupants.
295. Entry under preceding section, when to be made.
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297. Authorities of Salt Lake City, rights of, as to entry.</p> | <p>Sec.
298. Additional entry allowed where town has entered less than maximum.
299. Not more than 2,560 acres to be reserved for town site.
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302. Certain acts of trustees to be void.
303. Pre-emptions by counties for seats of justice.
304. No title acquired to gold mines, &c., or to mining claim, &c.
305. Military or other reservations, &c.
306. Inhabitants of towns on public lands, right of, to enter.</p> |
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SEC. 287. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population. Town sites to be reserved.

12 Stat. 754; 19 *id.* 392; R. S. 2380.

SEC. 288. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry, according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof; and all such sales shall be conducted by the register and receiver of the land office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land Office. Reservations to be surveyed into lots.

12 Stat. 754; R. S. 2381. Decision Sec. Int., Aug. 28, 1880 (8 Wash. Law Rep. 574).

SEC. 289. In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and Town or city sites on public lands.

forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land Office it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale.

13 Stat. 343; R. S. 2382. *Towsley v. Johnson*, 1 Neb. 95; *Nevada v. Rhodes*, 4 Nev. 312; *Robinson v. Imperial Silver, &c.*, 5 *id.* 44; *Bell v. The Bed Rock Tunnel Mining Co.*, 36 Cal. 214. Decision Com. G. L. O., April 4, 1863 (Zab. L. L. 196). Cir. G. L. O., Aug. 20, 1864 (Zab. L. L. 179; Copp's L. L. 661); Oct. 20, 1865 (Copp's L. L. 678).

When towns established upon unsurveyed lands, extension limits, how adjusted.

SEC. 290. When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

13 Stat. 344; R. S. 2383.

When transcript maps of town are not filed in twelve months, proceedings by Secretary of the Interior.

SEC. 291. If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land Office a transcript map, with the statement and testimony called for by the provisions of section two hundred and eighty-nine, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they

shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.

13 Stat. 344; R. S. 2384.

SEC. 292. In the case of any city or town, in which the lots may be variant as to size from the limitation fixed in section two hundred and eighty-nine, and in which the lots and buildings, as municipal improvements, cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim under the provisions of that section; but the minimum price of each lot in such city or town, which may contain a greater number of square feet than the maximum named in that section, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish.

Where size of lots or town plat vary from general rule.

13 Stat. 530; R. S. 2385. Cir. G. L. O., April 26, 1865 (Zab. L. L. 1-1; Copp's L. L. 664); Oct. 20, 1865 (Copp's L. L. 678).

SEC. 293. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

Title to lots subject to mineral rights.

13 Stat. 530; R. S. 2386. Decision Sec. Int., March 4, 1879 (6 Copp's L. O. 3). Decisions Com. G. L. O., June 16, 1874 (Copp's L. L. 638); Dec. 3, 1875 (2 Copp's L. O. 150); Oct. 27, 1876 (3 *id.* 114); Nov. 23, 1876 (3 *id.* 131); April 9, 1877 (4 *id.* 46).

SEC. 294. Whenever any portion of the public lands have been or may be settled upon and occupied as a town site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

Entry of town authorities in trust for occupants.

14 Stat. 541; 18 *id.* 254; R. S. 2387. *Dredge v. Forsyth*, 2 Black, 563; *Hussey v. Smith*, 9 Otto, 20; *Stringfellow v. Cain*, 9 *id.* 610; *Cannon v. Pratt*, 9 *id.* 619. *Root v. Shields*, 1 Woolw. C. C. 340; *Chopman v. School Dist. 1*, 1 Deady, C. C. 108. *Cush v. Spalding*, 6 Mich. 193; *Clark v. Roy*, 20 Wis. 478; *Perry v. Superior City*, 26 *id.* 66; *Leech v. Ranch*, 3 Minn. 448; *Castner v. Gunther*, 6 *id.* 63; *Weisberger v. Tenney*, 8 *id.* 456; *Cathcart v. Kortum*, 11 *id.* 45; *City of Winona v. Huff*, 11 *id.* 119; *Carson v. Smith*, 12 *id.* 546; *Coy v. Coy*, 15 *id.* 119; *Mankato v. Meagher*, 17 *id.* 265; *Tecumseh Townsite Lease*, 3 Neb. 267; *Burbank v. Ellis*, 7 *id.* 156; *Winfield Town Co. v. Morris*, 11 Kansas, 128; *Independent Town Co. v. De Long*, 11 *id.* 152; *Sherry v. Sampson*, 11 *id.* 611; *McTaggart v. Harrison*, 12 *id.* 62; *Setter v. Avery*, 15 *id.* 157; *Allen v. Houston*, 21 *id.* 194; *Treadway v. Wilder*, 8 Nev. 91; *Lecker v.*

Chapin, 12 *id.* 65; *Hussey v. Smith*, 1 Utah, 129; *Pratt v. Young*, 1 *id.* 347; *Edwards v. Tracey*, 2 Montana, 49; *Hall v. Ashby*, 2 *id.* 489; *Cotfield v. McClellan*, 1 Colo. 370; *Clayton v. Spencer*, 2 *id.* 378; *Georgetown v. Glaze*, 3 *id.* 230; *Tucker v. McCoy*, 3 *id.* 284; *Adams v. Brinkley*, 4 *id.* 247; *Doll v. Meador*, 16 Cal. 296; *Ricks v. Reed*, 19 *id.* 551. Decisions Sec. Int., June 30, 1858 (1 *Lester's L. L.* 435); July 9, 1858 (1 *id.* 435); Sept. 8, 1859 (1 *id.* 443); April 28, 1874 (1 *Copp's L. O.* 42); June 8, 1875 (2 *id.* 85); June 5, 1876; (3 *id.* 50); July 26, 1876 (3 *id.* 86); April 17, 1877 (4 *id.* 45); April 30, 1878; April 17, 1879. Decisions Com. G. L. O., Oct. 18, 1858 (1 *Lester's L. L.* 437); June 29, 1874 (1 *Copp's L. O.* 68); July 13, 1874 (1 *id.* 68). Cir. G. L. O., Sept. 21, 1868 (*Copp's L. L.* 678).

Entry under preceding section, when to be made.

SEC. 295. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town site shall be filed with the register of the proper land office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying district in which the lands are situated; who shall transmit the same to the General Land Office.

14 Stat. 541; 18 *id.* 254; R. S. 2388. *Stark v. Starra*, 6 Wall. 402. Decisions Sec. Int., Aug. 18, 1856 (1 *Lester's L. L.* 431); June 26, 1858 (1 *id.* 432); June 30, 1858 (1 *id.* 435); July 9, 1858 (1 *id.* 435); Nov. 5, 1858 (1 *id.* 411); Nov. 5, 1858 (1 *id.* 442); April 13, 1859 (1 *id.* 442); Sept. 27, 1872 (*Copp's L. L.* 373). Decisions Com. G. L. O., Dec. 7, 1872 (1 *Copp's L. O.* 6); March 21, 1874 (1 *id.* 7); Oct. 11, 1877 (4 *id.* 132); Aug. 23, 1878. Cir. G. L. O., Sept. 21, 1868 (*Copp's L. L.* 678).

Entry in proportion to number of inhabitants.

SEC. 296. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.

14 Stat. 541; 18 *id.* 254; 19 *id.* 392; R. S. 2389. Decisions Sec. Int., July 8, 1871 (*Copp's L. L.* 683); July 28, 1871 (*id.* 685); Aug. 9, 1871 (*id.* 686); June 5, 1876 (3 *Copp's L. O.* 50); March 19, 1879 (5 *id.* 136). Decision Com. G. L. O., June 29, 1874 (1 *Copp's L. O.* 68). Cir. G. L. O., Sept. 21, 1868 (*Copp's L. L.* 678).

Authorities of Salt Lake City; rights of, as to entry.

SEC. 297. The words "not exceeding five thousand in all," in the preceding section, shall not apply to Salt Lake City, in the Territory of Utah; but such section shall be so construed in its application to that city that lands may be entered for the full number of inhabitants contained therein, not exceeding fifteen thousand; and as that city covers school-section number thirty-six, in township number one

north, of range number one west, the same may be embraced in such entry, and indemnity shall be given therefor when a grant is made by Congress of sections sixteen and thirty-six, in the Territory of Utah, for school purposes.

16 Stat. 143; 18 *id.* 254; R. S. 2390.

SEC. 298. It shall be lawful for any town which has made, or may hereafter make entry of less than the maximum quantity of land named in section two hundred and ninety-six, to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries there[to]fore made will not exceed twenty-five hundred and sixty acres: *Provided*, That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section.

19 Stat. 392, 393.

SEC. 299. The existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town site under existing laws, unless the entire tract claimed or incorporated as such town site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

19 Stat. 392. Decisions Sec. Int., Oct. 1, 1879 (6 Copp's L. O. 109); Oct. 8, 1879 (6 *id.* 110).

SEC. 300. Where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, said entries, if regular in all respects, are hereby confirmed and may be carried into patent: *Provided*, That this confirmation shall not operate to restrict the entry of any town site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section two hundred and ninety-six.

19 Stat. 392. Decisions Sec. Int., Oct. 1, 1879 (6 Copp's L. O. 109) Oct. 8, 1879 (6 *id.* 110).

SEC. 301. Whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section two hundred and ninety-nine, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead

Additional entry allowed where town has entered less than maximum.

Not more than 2,500 acres to be reserved for town site.

Certain entries within town sites confirmed.

Proviso.

Where town site exceeds maximum, authorities to select lands to be retained, or Commissioner may take testimony and restrict limits.

and pre-emption laws. Upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements, to be taken by the register and receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section two hundred and ninety-nine, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws; and it shall be the duty of the secretary of each of the Territories of the United States to furnish the surveyor-general of the Territory for the use of the United States a copy duly certified of every act of the legislature of the Territory incorporating any city or town, the same to be forwarded by such secretary to the surveyor-general within one month from date of its approval.

Copies of acts incorporating towns, how furnished.

19 Stat. 392. Decisions Sec. Int., Oct. 1, 1879 (6 Copp's L. O. 109); Oct. 8, 1879 (6 *id.* 110).

Certain acts of trustees to be void.

SEC. 302. Any act of the trustees not made in conformity to the regulations alluded to in section two hundred and ninety-four shall be void.

14 Stat. 541; 18 *id.* 254; R. S. 2391. *Cathcart v. Kortum*, 11 Minn. 45; *Setter v. Avery*, 15 Kansas, 157; *Treadway v. Wilder*, 8 Nev. 91; *Treadway v. Wilder*, 9 *id.* 67; *Edwards v. Tracy*, 2 Montana, 49; *Hall v. Ashby*, 2 *id.* 489.

Pre-emptions by counties for seats of justice.

SEC. 303. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter-section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter-sections shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

4 Stat. 50; R. S. 2286. *Whitelaw v. Reese*, 4 Oreg. 336.

No title acquired to gold mines, &c., or to mining claim, &c.

SEC. 304. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper; or to any valid mining claim or possession held under existing laws.

14 Stat. 541; 15 *id.* 67; 18 *id.* 254; R. S. 2392. Decisions Sec. Int., March 4, 1879 (6 Copp's L. O. 3). Decisions Com. G. L. O., April 21, 1874 (1 Copp's L. O. 19); June 16, 1874 (Copp's L. L. 698); Dec. 23, 1875 (2 Copp's L. O. 150); Oct. 27, 1876 (3 *id.* 114); Nov. 23, 1876 (3 *id.* 131); April 9, 1877 (4 *id.* 46).

Military or other reservations, &c.

SEC. 305. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the Land Office by title derived from the Crown of Spain, or otherwise.

14 Stat. 541; 19 *id.* 264; R. S. 2393.

SEC. 306. The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections two hundred and ninety-four, two hundred and ninety-five, and two hundred and ninety-six; and, in addition to the minimum price of the lands embracing any town site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in the sections herein cited shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town sites in this chapter set forth.

Inhabitants of towns on public lands, right of, to enter.

15 Stat. 67; 18 *id.* 254; R. S. 2394.

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CHAPTER ELEVEN.

BOUNTY-LAND WARRANTS AND SCRIP.

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| <p>Sec.</p> <p>307. Bounty lands for soldiers in certain wars.</p> <p>308. Certain classes of persons in the Mexican war, their widows, &c., entitled to forty acres.</p> <p>309. Militia and volunteers in service since 1812.</p> <p>310. Persons not entitled under preceding sections.</p> <p>311. Period of captivity added to actual service.</p> <p>312. Warrant and patent to issue, when.</p> <p>313. Widows of persons entitled.</p> <p>314. Additional bounty lands, &c.</p> <p>315. Classes under last section specified.</p> <p>316. What classes of persons entitled under section 314, without regard to length of service.</p> <p>317. Widows and children of persons entitled under section 314.</p> <p>318. Subsequent marriage of widow.</p> <p>319. Minors under section 317.</p> <p>320. Proof of service.</p> <p>321. Former evidence of right to bounty land to be received in certain cases.</p> <p>322. Allowance of time of service for distance from home to place of muster or discharge.</p> <p>323. Indians included.</p> <p>324. Former evidence of right to a pension to be received in certain cases on application for bounty land.</p> <p>325. Deserters not entitled to bounty land.</p> <p>326. Lost warrants, provisions for.</p> <p>327. Discharges; omissions and loss of, provided for.</p> <p>328. New warrant issued in lieu of lost warrant.</p> <p>329. Regulations of Secretary of Interior.</p> <p>330. Death of claimant after establishing right, and before issuing of warrant.</p> <p>331. When proofs may be filed by legal representatives.</p> | <p>Sec.</p> <p>332. Military bounty-land warrants and locations assignable.</p> <p>333. Warrants located on double-minimum lands, excess paid in cash.</p> <p>334. Claims for bounty lands in virtue of certain acts named.</p> <p>335. Same subject.</p> <p>336. Sales, mortgages, letters of attorney, &c., made before issue of warrant, to be void.</p> <p>337. Warrants to be located free of expense by Commissioner of Land Office, &c.</p> <p>338. Mode of issuing patents to the heirs of persons entitled to bounty lands.</p> <p>339. Relocation of military bounty-land warrants in cases of error.</p> <p>340. Authorizing the issuance of Sioux half-breed scrip.</p> <p>341. Certificates of location or scrip to issue in satisfaction of confirmed private land claims which cannot be located.</p> <p>342. Issuance and location of judicial scrip in lieu of confirmed private land claims.</p> <p>343. Patent to issue on scrip locations.</p> <p>344. Porterfield scrip, how located.</p> <p>345. Valentine scrip, how located.</p> <p>346. Coles scrip, how issued and located.</p> <p>347. Chippewa half-breed scrip, Red Lake and Pembina bands.</p> <p>348. Chippewa half-breed scrip, Lake Superior bands.</p> <p>349. Certain lands located in good faith by claims arising under treaty of Sept. 30, 1854, may be purchased, &c.</p> <p>350. Scrip to be issued in lieu of revolutionary bounty-land warrants.</p> <p>351. Scrip to be issued in lieu of Virginia bounty-land warrants.</p> |
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Bounty lands for soldiers in certain wars.

SEC. 307. Each of the surviving, or the widow or minor children of deceased commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment, in the service of the United States, in the war with Great Britain, declared on the eighteenth day of June, eighteen hundred and twelve, or in any of the Indian wars since seventeen hundred and ninety, and prior to the third of March, eighteen hundred and fifty, and each of the commissioned officers who was

engaged in the military service of the United States in the war with Mexico, shall be entitled to lands as follows: Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres, and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres; but wherever any officer or soldier was honorably discharged in consequence of disability contracted in the service, before the expiration of his period of service, he shall receive the amount to which he would have been entitled if he had served the full period for which he had engaged to serve. All the persons enumerated in this section who enlisted in the Regular Army, or were mustered in any volunteer company for a period of not less than twelve months, and who served in the war with Mexico and received an honorable discharge, or who were killed or died of wounds received or sickness incurred in the course of such service, or were discharged before the expiration of the term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant for one hundred and sixty acres of land: or at option Treasury scrip for one hundred dollars bearing interest at six per cent. per annum, payable semi-annually, at the pleasure of the Government. In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives; first, to the widow and his children; second, his father; third, his mother; fourth, his brothers and sisters.

9 Stat. 125, 126, 520; R. S. 2418. 2 Op. Att. Gen. 501, 506; 3 *id.* 382; 5 *id.* 387, 609, 702; 9 *id.* 427. *People v. Auditor*, 9 Mich. 134; *Matthews v. Rector*, 24 Ohio St. 439. Cir. G. L. O., June 3, 1847 (1 *Lester's L. L.* 576); Oct. 1, 1847 (1 *id.* 578); April 1, 1848 (1 *id.* 579); Aug. 28, 1848 (1 *id.* 580); March 31, 1851 (1 *id.* 581); March 31, 1851 (1 *id.* 583); April 4, 1851 (1 *id.* 584). Cir. Com. Pensions, 1879.

SEC. 308. The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged, are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars if preferred, and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and if none, to the father, and if no father, to the mother of such soldier.

Certain classes of persons in the Mexican war, their widows, &c., entitled to forty acres.

9 Stat. 126; R. S. 2419. 2 Op. Att. Gen. 501. Cir. G. L. O., June 3, 1847 (1 *Lester's L. L.* 576); March 31, 1851 (1 *id.* 581). Cir. Com. Pensions, 1879.

SEC. 309. Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be entitled

Militia and volunteers in service since 1812.

to all the benefits of section three hundred and seven upon proof of length of service as therein required.

10 Stat. 4; R. S. 2420. 2 Op. Att. Gen. 501.

Persons not entitled under preceding sections.

SEC. 310. No person shall take any benefit under the provisions of the three preceding sections, if he has received, or is entitled to receive, any military land-bounty under any act of Congress passed prior to the twenty-second March, eighteen hundred and fifty-two.

9 Stat. 520; R. S. 2421. Decisions Sec. Int., April 12, 1855 (1 Lester's L. L. 614).

Period of captivity added to actual service.

SEC. 311. The period during which any officer or soldier remained in captivity with the enemy shall be estimated and added to the period of his actual service, and the person so retained in captivity shall receive land under the provisions of sections three hundred and seven and three hundred and nine, in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such term.

9 Stat. 520; R. S. 2422.

Warrant and patent to issue, when.

SEC. 312. Every person for whom provision is made by sections three hundred and seven and three hundred and nine shall receive a warrant from the Department of the Interior for the quantity of land to which he is entitled; and, upon the return of such warrant, with evidence of the location thereof having been legally made to the General Land Office, a patent shall be issued therefor.

9 Stat. 520; R. S. 2423. *Wirth v. Branson*, 8 Otto, 118. 2 Op. Att. Gen. 501; 5 *id.* 387, 657, 702. *Galup v. Armstrong*, 22 Cal. 480; *Callaway v. Fash*, 50 Mo. 420; *Fisher v. Wisner*, 34 Iowa, 447; *Railway Co. v. Clingman*, 43 *id.* 306; *Scott v. Chickasaw Co.*, 46 *id.* 253; *Calder v. Keegan*, 30 Wis. 126; *Ausley v. Petenon*, 30 *id.* 653; *Merrill v. Hartwell*, 11 Mich. 200; *Johnson v. Gillilan*, 8 Minn. 395; *Brill v. Styles*, 35 Ills. 305. Cir. G. L. O., March 31, 1851 (1 Lester's L. L. 581). Cir. Com. Pensions, 1879.

Widows of persons entitled.

SEC. 313. In the event of the death of any person, for whom provision is made by sections three hundred and seven and three hundred and nine, and who did not receive bounty land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

9 Stat. 520; R. S. 2424. 2 Op. Att. Gen. 501, 506.

Additional bounty lands, &c.

SEC. 314. Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days, in any of the wars in which the United States have been engaged since the year seventeen hundred and ninety, and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior, for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of March, eighteen hundred and fifty-five, received a warrant for any

number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make, in the whole, with what he may have received prior to that date, one hundred and sixty acres.

10 Stat. 701, 702; R. S. 2425. 2 Op. Att. Gen. 501; 5 *id.* 387, 609, 702. Decisions Com. G. L. O., May 3, 1855 (1 Lester's L. L. 598). Cir. G. L. O., July 20, 1875 (Copp's L. L. 727); March 15, 1879 (6 Copp's L. O. 192). General Cir. G. L. O., 1879, pp. 6, 7. Cir. Com. Pensions, 1879.

SEC. 315. The classes of persons embraced as beneficiaries under the preceding section, are as follows, namely: Classes under last section specified.

First. Commissioned and non-commissioned officers, musicians, and privates, whether of the regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States.

Second. Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

Third. Militia, volunteers, and State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States.

Fourth. Wagon-masters and teamsters who have been employed under the direction of competent authority, in time of war, in the transportation of military stores and supplies.

Fifth. Officers and soldiers of the revolutionary war, and marines, seamen, and other persons in the naval service of the United States during that war.

Sixth. Chaplains who served with the Army.

Seventh. Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not.

10 Stat. 701; 11 *id.* 8, 9; R. S. 2426. 2 Op. Att. Gen. 501.

SEC. 316. The following class of persons are included as beneficiaries under section three hundred and fourteen, without regard to the length of service rendered: What classes of persons entitled under section 314 without regard to length of service.

First. Any of the classes of persons mentioned in section three hundred and fifteen who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five.

Second. Those volunteers who served at the invasion of Plattsburgh in September, eighteen hundred and fourteen.

Third. The volunteers who served at the battle of King's Mountain, in the Revolutionary war.

Fourth. The volunteers who served in the battle of Nickojack against the confederate savages of the South.

Fifth. The volunteers who served at the attack on Lewistown, in Delaware, by the British fleet, in the war of eighteen hundred and twelve.

10 Stat. 702; R. S. 2427. 2 Op. Att. Gen. 501.

SEC. 317. In the event of the death of any person who would be entitled to a warrant, as provided in section three hundred and fourteen, leaving a widow, or, if no widow, a Widows and children of persons entitled under section 314.

minor child, such widow or such minor child shall receive a warrant for the same quantity of land that the decedent would be entitled to receive, if living on the third day of March, eighteen hundred and fifty-five.

10 Stat. 702; R. S. 2428. 2 Op. Att. Gen. 501, 506.

Subsequent marriage of widow.

SEC. 318. A subsequent marriage shall not impair the right of any widow, under the preceding section, if she be a widow at the time of her application.

10 Stat. 702; R. S. 2429.

Minors under section 317.

SEC. 319. Persons within the age of twenty-one years on the third day of March, eighteen hundred and fifty-five, shall be considered minors within the intent of section three hundred and seventeen.

10 Stat. 702; R. S. 2430.

Proof of service.

SEC. 320. Where no record evidence of the service for which a warrant is claimed exists, parol evidence may be admitted to prove the service performed, under such regulations as the Commissioner of Pensions may prescribe.

10 Stat. 702; 11 *id.* 8; R. S. 2431.

Former evidence of right to bounty land to be received in certain cases.

SEC. 321. Where certificate or a warrant for bounty land for any less quantity than one hundred and sixty acres has been issued to any officer or soldier, or to the widow or minor child of any officer or soldier, the evidence upon which such certificate or warrant was issued shall be received to establish the service of such officer or soldier in the application of himself, or of his widow or minor child, for a warrant for so much land as may be required to make up the full sum of one hundred and sixty acres, to which he may be entitled under the preceding section, on proof of the identity of such officer or soldier, or, in case of his death, of the marriage and identity of his widow, or, in case of her death, of the identity of his minor child. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the former warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

11 Stat. 8; R. S. 2432. 2 Op. Att. Gen. 501.

Allowance of time of service for distance from home to place of muster or discharge.

SEC. 322. When any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized to the place where the same was mustered into the service of the United States, and one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service, provided that such march was in obedience to the command or direction of the President, or

some general officer of the United States, commanding an army or department, or the chief executive officer of the State or Territory by which such company, battalion, or regiment was called into service.

10 Stat. 4; 11 *id.* 9; R. S. 2433.

SEC. 323. The provisions of all the bounty-land laws shall be extended to Indians, in the same manner and to the same extent as to white persons. Indians included.

10 Stat. 702; R. S. 2434. 2 Op. Att. Gen. 501; 3 *id.* 382. Cir. G. L. O., May 3, 1855 (1 Lester's L. L. 598). Cir. Com. Pensions, 1879.

SEC. 324. Where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty land; and upon proof of his identity as such pensioner, a warrant may be issued to him for the quantity of land to which he is entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such widow; and in case of the death of such officer or soldier, leaving a minor child and no widow, or where the widow may have deceased before the issuing of any warrant, such minor child shall be entitled to a warrant for the same quantity of land as the father would have been entitled to receive if living, upon proof of the decease of father and mother. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the pension was properly granted, he may require additional evidence, as well of the term as of the fact of service. Former evidence of right to a pension to be received in certain cases on application for bounty land.

11 Stat. 8; R. S. 2435.

SEC. 325. No person who has been in the military service of the United States shall, in any case, receive a bounty-land warrant if it appears by the muster rolls of his regiment or corps that he deserted or was dishonorably discharged from service. Deserters not entitled to bounty land.

9 Stat. 520; 10 *id.* 701; R. S. 2438. Cir. Com. Pensions, 1879.

SEC. 326. When a soldier of the Regular Army, who has obtained a military land-warrant, loses the same, or such warrant is destroyed by accident, he shall, upon proof thereof to the satisfaction of the Secretary of the Interior, be entitled to a patent in like manner as if the warrant was produced. Lost warrants, provisions for.

3 Stat. 317; R. S. 2439. 2 Op. Att. Gen. 506; 3 *id.* 382.

SEC. 327. In all cases of discharge from the military service of the United States of any soldier of the Regular Army, when it appears to the satisfaction of the Secretary of War that a certificate of faithful services has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such omission shall not prevent the issuing of the warrant and patent as in other cases. And when it is proved that any soldier of the Regular Army has lost his discharge and certificate of faithful service, the Secretary of War shall cause such papers to be Discharges; omissions and loss of, provided for.

furnished such soldier as will entitle him to his land warrant and patent, provided such measure is justified by the time of his enlistment, the period of service, and the report of some officer of the corps to which he was attached.

3 Stat. 317; R. S. 2440.

New warrant
issued in lieu of
lost warrant.

SEC. 328. Whenever it appears that any certificate or warrant, issued in pursuance of any law granting bounty land, has been lost or destroyed, whether the same has been sold and assigned by the warrantee or not, the Secretary of the Interior is required to cause a new certificate or warrant of like tenor to be issued in lieu thereof; which new certificate or warrant may be assigned, located, and patented in like manner as other certificates or warrants for bounty land are now authorized by law to be assigned, located, and patented; and in all cases where warrants have been, or may be, reissued, the original warrant, in whose ever hands it may be, shall be deemed and held to be null and void, and the assignment thereof, if any there be, fraudulent; and no patent shall ever issue for any land located therewith, unless such presumption of fraud in the assignment be removed by due proof that the same was executed by the warrantee in good faith and for a valuable consideration.

12 Stat. 90; 18 *id.* 111; R. S. 2441. 2 Op. Att. Gen. 506; 3 *id.* 352. Decisions Sec. Int., Nov. 10, 1851 (1 Lester's L. L. 612); July 26, 1879 (6 Copp's L. O. 114). Decision Com. G. L. O., Oct. 12, 1854 (1 Lester's L. L. 610). Cir. G. L. O., July 20, 1875 (Copp's L. L. 727). Cir. Com. Pensions, Aug. 15, 1860 (Zab. L. L. 727) and 1879.

Regulations by
Secretary of In-
terior.

SEC. 329. The Secretary of the Interior is required to prescribe such regulations for carrying the preceding section into effect as he may deem necessary and proper in order to protect the Government against imposition and fraud by persons claiming the benefit thereof; and all laws and parts of laws for the punishment of frauds against the United States are made applicable to frauds under that section.

12 Stat. 91; 18 *id.* 111; R. S. 2442. Cir. Com. Pensions, Aug. 15, 1860 (Zab. L. L. 360).

Death of claim-
ant after estab-
lishing right and
before issuing of
warrant.

SEC. 330. When proof has been or hereafter is filed in the Pension Office, during the life-time of a claimant, establishing, to the satisfaction of that office, his right to a warrant for military services, and such warrant has not been, or may not be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in his widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all military bounty-land warrants issued pursuant to law shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

11 Stat. 308; R. S. 2444. 2 Op. Att. Gen. 506; 9 *id.* 243. Cir. G. L. O., Nov. 1, 1858 (1 Lester's L. L. 607). Cir. Com. Pensions, 1879.

When proofs
may be filed by
legal representa-
tives.

SEC. 331. The legal representatives of a deceased claimant for a bounty-land warrant, whose claim was filed prior to his death, may file the proofs necessary to perfect such claim.

15 Stat. 336; R. S. 2445.

SEC. 332. All warrants for military bounty-lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing, made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

Military bounty-land warrants and locations assignable.

10 Stat. 3; 11 *id.* 309; R. S. 2414. 2 Op. Att. Gen. 506; 3 *id.* 382; 7 *id.* 657. *Dyke v. McVey*, 16 Ills. 41; *Fort v. Wilson*, 3 Iowa, 153; *Waters v. Bush*, 42 *id.* 255; *Railway Co. v. Clingman*, 43 *id.* 306; *Merrill v. Hartwell*, 11 Mich. 200; *Johnson v. Gillfillan*, 8 Minn. 395. Decisions Sec. Int., Nov. 10, 1851 (1 *Lester's L. L.* 612); March 20, 1852 (1 *id.* 612); March 16, 1854 (1 *id.* 614); May 21, 1856 (1 *id.* 616); Aug. 10, 1858 (1 *id.* 619); March 25, 1859 (1 *id.* 620); Jan. 19, 1860 (1 *id.* 621); Sept. 30, 1878 (5 *Copp's L. O.* 127). Cir. G. L. O., March 23, 1852 (1 *Lester's L. L.* 585); April 2, 1852 (1 *id.* 589); Oct. 14, 1852 (1 *id.* 591); Oct. 17, 1853 (*Zab. L. L.* 332); May 3, 1855 (1 *id.* 343); Aug. 27, 1861 (1 *id.* 363); May 23, 1856 (1 *id.* 358); July 20, 1875 (5 *Copp's L. O.* 127).

SEC. 333. The warrants which have been or may hereafter be issued in pursuance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Warrants located on double-minimum lands, excess paid in cash.

10 Stat. 3; R. S. 2415. *Taylor et al. v. Quarles*, 5 Cranch, 234; *Wirth v. Branson*, 8 Otto, 118. 5 Op. Att. Gen. 609. *Butterfield v. Railway Co.*, 31 Cal. 264. Decisions Sec. Int., Nov. 10, 1851 (1 *Lester's L. L.* 612); May 20, 1852 (1 *id.* 612); March 19, 1856 (1 *id.* 615); Jan. 21, 1860 (1 *id.* 622); Jan. 20, 1875 (*Copp's L. L.* 727); Feb. 19, 1874 (1 *id.* 740); March 11, 1876 (3 *Copp's L. O.* 10); Aug. 11, 1876 (1 *id.* 86); Oct. 5, 1876 (1 *id.* 121). Decisions Com. G. L. O., March 23, 1852 (1 *Lester's L. L.* 585); April 2, 1852 (1 *id.* 589); Oct. 17, 1853 (1 *id.* 592); May 3, 1855 (1 *id.* 598); May 23, 1856 (1 *id.* 607). Decisions Com. G. L. O., June 17, 1875 (*Copp's L. L.* 179); 2 *Copp's L. O.* 68). Cir. G. L. O., Sept. 1, 1879, pp. 6, 7; Aug. 2, 1871.

SEC. 334. In all cases of warrants for bounty lands, issued by virtue of an act approved July twenty-seven, one thousand eight hundred and forty-two, and of two acts approved January twenty-seven, one thousand eight hundred and thirty-five, therein and thereby revised, and of two acts to the same intent, respectively, approved June twenty-six, eighteen hundred and forty-eight, and February eight, eighteen hundred and fifty-four, for military services in the revolutionary war, or in the war of eighteen hundred and twelve with Great Britain, which remained unsatisfied on the second day of July, eighteen hundred and sixty-four, it is lawful for the person in whose name such warrant issued, his heirs or legal representatives, to enter in quarter-sections, at the

Claims for bounty lands in virtue of certain acts named, &c.

proper local land office in any of the States or Territories, the quantity of the public lands subject to private entry which he is entitled to under such warrant.

13 Stat. 378; R. S. 2416. *Wirth v. Branson*, 8 Otto, 118.

Same subject.

SEC. 335. All warrants for bounty lands referred to in the preceding section may be located at any time, in conformity with the general laws in force at the time of such location.

13 Stat. 379; R. S. 2417.

Sales, mortgages, letters of attorney, &c., made before issue of warrant to be void.

SEC. 336. All sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant issued, or to be issued, or any land granted, or to be granted, under the preceding provisions of this chapter, made or executed prior to the issue of such warrant, shall be null and void to all intents and purposes whatsoever; nor shall such warrant, or the land obtained thereby, be in any wise affected by, or charged with, or subject to, the payment of any debt or claim incurred by any officer or soldier, prior to the issuing of the patent.

9 Stat. 521; R. S. 2436. *Wright v. Taylor*, 2 Dillon, C. C. 23. 2 Op. Att. Gen. 506; 3 *id.* 352. *Dupré v. McRight*, 6 La. Ann. 146; *Nichols v. Nichols*, 3 Pinney (Wis.) 174; same case, 3 Chandler (Wis.) 189; *Stephenson v. Wilson*, 37 *id.* 482; *Fort v. Wilson*, 3 Iowa 153; *Railway Co. v. Clingman*, 43 *id.* 306. Decisions Sec. Int., April 17, 1871 (1 Lester's L. L. 611). Cir. G. L. O., Aug. 2, 1871; July 20, 1875 (Copp's L. L. 727).

Warrants to be located free of expense by Commissioner of Land Office, &c.

SEC. 337. It shall be the duty of the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land Office for that purpose, in such State or land district as the holder or warrantee may designate, and upon good farming land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.

9 Stat. 521; R. S. 2437. *Wirth v. Branson*, 8 Otto, 118. 2 Op. Att. Gen. 501. Decisions Sec. Int., Feb. 19, 1858 (1 Lester's L. L. 617); March 1, 1876 (3 Copp's L. O. 10). Decision Com. G. L. O., July 20, 1875 (Copp's L. L. 727). Cir. G. L. O., March 31, 1851 (1 Lester's L. L. 581, 583); April 4, 1851 (1 *id.* 584).

Mode of issuing patents to the heirs of persons entitled to bounty lands.

SEC. 338. In all cases where an officer or soldier of the revolutionary war, or a soldier of the war of eighteen hundred and twelve, was entitled to bounty land, has died before obtaining a patent for the land, and where application is made by a part only of the heirs of such deceased officer or soldier for such bounty land, it shall be the duty of the Secretary of the Interior to issue the patent in the name of the heirs of such deceased officer or soldier, without specifying each; and the patent so issued in the name of the heirs generally, shall inure to the benefit of the whole, in such portions as they are severally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.

5 Stat. 650; R. S. 2443.

SEC. 339. Where an actual settler on the public lands has sought, or hereafter attempts, to locate the land settled on and improved by him, with a military bounty-land warrant, and where, from any cause, an error has occurred in making such location, he is authorized to relinquish the land so erroneously located, and to locate such warrant upon the land so settled upon and improved by him, if the same then be vacant, and if not, upon any other vacant land, on making proof of those facts to the satisfaction of the land officers, according to such rules and regulations as may be prescribed by the Commissioner of the General Land Office, and subject to his final adjudication.

Relocation of military bounty-land warrants in cases of error.

10 Stat. 256; R. S. 2446. U. S. v. Innerarity, 19 Wall. 595; Wirth v. Branson, 8 Otto, 118; Scull v. U. S., 8 id. 410; U. S. v. Clamorgan, Dantier v. U. S., S. C., Oct. T. 1879, in manuscript. 2 Op. Att. Gen. 501. Cir. G. L. O., April 20, 1853 (1 Lester's L. L. 590).

SEC. 340. The President is authorized to exchange with the half-breeds or mixed bloods of the Dacotah or Sioux nation of Indians, who are entitled to an interest therein, for the tract of land lying on the west side of Lake Pepin and the Mississippi River, Minnesota, which was set apart and granted for their use and benefit, by the ninth article of the treaty of Prairie du Chien, of the fifteenth day of July, one thousand eight hundred and thirty; and for that purpose he is authorized to cause to be issued to said persons, on the execution by them, or by the legal representatives of such as may be minors, of a full and complete relinquishment by them to the United States of all their right, title, and interest, according to such form as shall be prescribed by the Commissioner of the General Land Office, in and to said tract of land or reservation, certificates or scrip for the same amount of land to which each individual would be entitled in case of a division of the said grant or reservation pro rata among the claimants—which said certificates or scrip may be located upon any of the lands within said reservation not now occupied by actual and bona-fide settlers of the half-breeds or mixed bloods, or such other persons as have gone into said Territory by authority of law, or upon any other unoccupied lands subject to pre-emption or private sale, or upon any other unsurveyed lands, not reserved by Government, upon which they have respectively made improvements: *Provided*, That said certificates or scrip shall not embrace more than six hundred and forty, nor less than forty acres each: *And provided*, That the same shall be equally apportioned, as nearly as practicable, among those entitled to an interest in said reservation: *And provided further*, That no transfer or conveyance of any of said certificates or scrip shall be valid.

Authorizing the issuance of Sioux half-breed scrip.

Proviso.

10 Stat. 304. 2 Op. Att. Gen. 506; 3 id. 382. Sharon v. Wooldrick, 18 Minn. 354; Thompson v. Myrick, 20 id. 205. Decisions Sec. Int., May 24, 1859 (1 Lester's L. L. 634); July 18, 1859 (1 id. 499); May 25, 1871 (Copp's L. L. 444); Sept. 27, 1872 (Copp's L. L. 373). Cir. G. L. O., March 21, 1857 (1 Lester's L. L. 627); Feb. 22, 1864 (Zab. L. L. 310; Copp's L. L. 721; 1 Copp's L. O. 142); Jan. 29, 1872 (Copp's L. L. 723); June 26, 1874 (Copp's L. L. 724; 1 Copp's L. O. 54); Nov. 12, 1874 (Copp's L. L. 725; 1 Copp's L. O. 141); May 28, 1878 (5 Copp's L. O. 126).

SEC. 341 Where any private land claim was confirmed

Certificates of location or scrip to issue in satisfaction of confirmed private land claims which cannot be located.

by Congress prior to June second, eighteen hundred and fifty-eight, and the same, in whole or in part, has not been located or satisfied, either for want of a specific location prior to such confirmation, or for any reason whatsoever, other than a discovery of fraud in such claim subsequent to such confirmation, it shall be the duty of the surveyor-general of the district in which such claim was situated, upon satisfactory proof that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, to issue to the claimant, or his legal representatives, certificates of location for a quantity of land equal to that so confirmed and unsatisfied; which certificates of location or scrip shall be subdivided according to the request of the confirmer or confirmeres, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the same in his own name upon any of the public lands of the United States subject to sale at private entry, at a price not exceeding one dollar and twenty-five cents per acre, and shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

11 Stat. 294, 295; 20 *id.* 274, 275. 2 Op. Att. Gen. 506; 3 *id.* 392. Decisions Sec. Int., April 24, 1878; July 7, 1879; Feb. 23, 1880 (7 Copp's L. O. 55); June 22, 1880 (7 *id.* 57). Decisions Com. G. L. O., Aug. 26, 1872 (Copp's L. L. 513); April 12, 1873 (*id.* 527); July 14, 1873 (*id.* 517); Dec. 14, 1876; March 22, 1879. Cir. G. L. O., Oct. 25, 1860 (Copp's L. L. 523).

Issuance and location of judicial scrip in lieu of confirmed private land claims.

SEC. 342. Whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States of Florida, Louisiana and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of this section; and said certificate of location or scrip shall be subdivided according to the request of the confirmer or confirmeres, and, as nearly as practicable, in

conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and *are* hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name; such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

12 Stat. 85, 86; 20 *id.* 274, 275. 2 Op. Att. Gen. 506; 3 *id.* 382. Decisions Sec. Int., Aug. 4, 1875 (Copp's L. L. 796). Decisions Com. G. L. O., March 31, 1879. Cir. G. L. O., Oct. 8, 1874 (Copp's L. L. 797); Sept. 15, 1875 (2 Copp's L. O. 102); Feb. 13, 1879 (5 *id.* 181).

SEC. 343. The register of the proper land office, upon any certificate issued under the two preceding sections being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of said sections, a patent shall issue, as in other cases, in the name of the locator or his legal representative. Patent to issue on scrip locations.

12 Stat. 85, 86; 20 *id.* 274, 275. Decisions Com. G. L. O., Aug. 7, 1874 (1 Copp's L. O. 92). Cir. G. L. O., Oct. 8, 1874 (Copp's L. L. 797, 1 Copp's L. O. 124); Sept. 15, 1875 (2 Copp's L. O. 102); Feb. 13, 1879 (5 *id.* 181); May 8, 1879 (6 *id.* 54).

SEC. 344. The warrants issued to William Kinney and Thomas J. Michie, executors of the last will and testament of Robert Porterfield, deceased, pursuant to the act of Congress approved April eleventh, eighteen hundred and sixty, may be by them located on any of the public lands which have been or may be surveyed, and which have not been otherwise appropriated at the time of such location within any of the States or Territories of the United States where the minimum price for the same shall not exceed the sum of one dollar and twenty-five cents per acre; to be selected and located in conformity with the legal subdivisions of the public surveys, and appropriated according to the directions contained in the last will and testament of the said Robert Porterfield, deceased, in the same manner and for the purposes directed in regard to the lands which were lost by the said legal representatives in the action with Clark and others, as decided by the Supreme Court of the United States. Porterfield scrip, how located.

12 Stat. 836. 2 Op. Att. Gen. 506; 3 *id.* 382. Parker v. Duff, 47 Cal. 554. Decisions Sec. Int., Nov. 2, 1871 (Copp's L. L. 803); July 25, 1872 (*id.* 805). Decisions Com. G. L. O., March 16, 1870 (Copp's L. L. 210). *Form of scrip*: Copp's L. L. 805.

SEC. 345. The scrip issued to Thomas B. Valentine, pursuant to an act of Congress approved April fifth, eighteen hundred and seventy-two, may be located by said Valentine or his legal representatives upon any of the unoccupied and unappropriated public lands of the United States, not mineral, and in tracts not less than the subdivisions provided Valentine's scrip, how located.

for in the United States land laws, and, if unsurveyed when taken, to conform, when surveyed, to the general system of United States land surveys, and patents shall be allowed therefor.

17 Stat. 649. 2 Op. Att. Gen. 506; 3 *id.* 382. Decisions Sec. Int., Feb. 28, 1879 (6 Copp's L. O. 22); March 19, 1879; July 17, 1880 (7 Copp's L. O. 83). Decisions Com. G. L. O., Feb. 12, 1878 (4 Copp's L. O. 186); Nov. 22, 1876 (3 *id.* 172). Cir. G. L. O., June 17, 1874 (Copp's L. L. 806, 1 Copp's L. O. 69); Jan. 6, 1876 (2 Copp's L. O. 183).

Providing for
issuing and loca-
tion of Colo-
scrip.

SEC. 346. The Commissioner of the General Land Office is authorized and required to issue warrants, in lieu of Iowa swamp-land indemnity certificates numbered ninety-two and ninety-three, to Robert Coles, in accordance with the legal subdivisions of the public lands, in quantities not less than eighty acres, which may be located by the said Robert Coles, his heirs or assigns, upon any of the public lands not mineral, or coal or double-minimum lands, subject to entry by pre-emption, or under the provisions of the homestead act; which warrants may also be received from actual settlers in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants: *Provided*, That said locations do not interfere with prior pre-emption or homestead rights; and patents may issue therefor the same as provided for military bounty-land warrants or lands sold for cash.

20 Stat. 536. 2 Op. Att. Gen. 506; 3 *id.* 382.

Chippewa half-
breed scrip, Red
Lake and Pem-
bina bands.

SEC. 347. In lieu of the lands provided for the mixed bloods of the Red Lake and Pembina bands of Chippewa Indians by article eight of the treaty concluded at the Old Crossing of Red Lake River, on October second, eighteen hundred and sixty-three, scrip shall be issued to such of said mixed bloods as shall so elect, which shall entitle the holder to a like amount of land, and may be located upon any of the lands ceded by said treaty, but not elsewhere, and shall be accepted by said mixed bloods in lieu of all future claims for annuities.

13 Stat. 669, 690; Revised Indian Treaties, 256, 259. 2 Op. Att. Gen. 506; 3 *id.* 382. Cir. G. L. O., April 20, 1871 (Copp's L. L. 712).

Chippewa half-
breed scrip, Lake
Superior bands.

SEC. 348. Each head of a family or single person over twenty-one years of age on September thirtieth, eighteen hundred and fifty-four, of the mixed bloods, belonging to the Chippewas of Lake Superior, shall be entitled to eighty acres of land, to be selected by them under the direction of the President, and which shall be secured to them by patent in the usual form.

10 Stat. 1110. *Larrivier v. Madigan*, 1 Dillon, C. C. 445. 2 Op. Att. Gen. 506; 3 *id.* 382. Cir. G. L. O., Nov. 24, 1857 (Zab. L. L. 398); May 13, 1865 (*id.* 313); April 21, 1871 (Copp's L. L. 712); March 15, 1873 (*id.* 707).

Certain lands
located in good
faith by claims
arising under
treaty of Septem-
ber 30, 1854, may
be purchased, &c.

SEC. 349. The Secretary of the Interior is authorized to permit the purchase, with cash or military bounty-land warrants, of such lands as may have been located with claims arising under the seventh clause of the second article of the treaty of September thirty, eighteen hundred and fifty-four, at such

price per acre as he deems equitable and proper, but not at a less price than one dollar and twenty-five cents per acre, and the owners and holders of such claims in good faith are also permitted to complete their entries, and to perfect their titles under such claims upon compliance with the terms above mentioned; but it must be shown to the satisfaction of the Secretary of the Interior that such claims are held by innocent parties in good faith, and that the locations made under such claims have been made in good faith and by innocent holders of the same.

17 Stat. 340; R. S. 2368. Decision Com. G. L. O., Dec. 1, 1876 (4 Copp's L. O. 109).

SEC. 350. The owners of military land-warrants issued by the United States in satisfaction of claims for bounty land for service during the revolutionary war, their heirs and assigns, shall be, and they are hereby, authorized to surrender, to the Secretary of the Interior, such of their warrants for the said land bounties as shall remain unsatisfied, in whole or in part, and to receive certificates or scrip for the same, at any time before the first day of September, one thousand eight hundred and thirty-five, which certificate or scrip shall be issued by the said Secretary, and signed by him and countersigned by the Commissioner of the General Land Office in the following manner, that is to say: There shall be a separate certificate or scrip, for such sum as shall, at the time of issuing the same, be equal to the then minimum price of each quantity of eighty acres of land due by such warrant, and remaining unsatisfied at the time of such surrender, and a like certificate or scrip for such sum as, at the time, shall be equal to the minimum price of the quantity that shall so remain unsatisfied, of any such warrant after such subdivisions of the amount into quantities of eighty acres. All certificates or scrip issued in virtue of any warrant granted after the thirtieth day of May, one thousand eight hundred and thirty, shall be issued to the party originally entitled thereto, or his heir or heirs, devisee or devisees, as the case may be. The certificates or scrip issued under the provisions of this section, shall be receivable in payment for any of the public lands liable to sale at private entry; but such certificate or scrip shall not entitle the holder to enter or purchase any settled or occupied lands, without the written consent of such settlers or occupants, as may be actually residing on said lands at the time the same shall be entered or applied for. All such certificates or scrip shall be assignable, by indorsement thereon, attested by two witnesses.

Scrip may be issued to owners of military land-warrants, issued by the United States in satisfaction of claims for bounty land for service during revolutionary war, upon surrender thereof to the Secretary of the Interior.

4 Stat. 422, 423, 424, 665, 770. 2 Op. Att. Gen. 385; 3 *id.* 246. Decision Sec. Int., June 14, 1858 (1 Lester's L. L. 480). Cir. G. L. O., Aug. 17, 1853 (1 Lester's L. L. 682); June 14, 1860 (Copp's L. L. 739); July 1, 1871; Dec. 16, 1874 (Copp's L. L. 741; 1 Copp's L. O. 151).

SEC. 351. All outstanding military land-warrants or parts of warrants issued upon allowances made by the executive of the commonwealth of Virginia prior to the first day of March, one thousand eight hundred and fifty-two, for military services performed by the officers and soldiers, seamen

Secretary of Interior may upon proof issue scrip in satisfaction of certain outstanding Virginia land-warrants.

or marines, of the Virginia State and continental lines in the Army or Navy of the Revolution, may be surrendered to the Secretary of the Interior, who, upon being satisfied, by a revision of the proofs or by additional testimony, that any warrant thus surrendered was fairly and justly issued in pursuance of the laws of said commonwealth, for military services so rendered, and that the same comes within the provisions recognized by the Department of the Interior in the execution of the provisions of "An act making further provision for the satisfaction of Virginia land-warrants," approved August thirty-first, one thousand eight hundred and fifty-two, shall issue land scrip in favor of the present proprietors of any warrant thus surrendered, for the whole or any portion thereof yet unsatisfied, at the rate of one dollar and twenty-five cents for each acre mentioned in the warrant thus surrendered and which remains unsatisfied, which scrip shall be receivable in payment for any lands owned by the United States subject to sale at private entry; and said scrip shall, moreover, be assignable by indorsement attested by two witnesses. In issuing such scrip, the Secretary is authorized, when there are more persons than one interested in the same warrant to issue to each person scrip for his or her portion of the warrant; and where infants or feme-coverts may be entitled to any scrip, the guardian of the infant and the husband of the feme-covert may receive and sell or locate the same: *Provided*, That no less than a legal subdivision shall be entered and paid for by the scrip issued in virtue of this section: *And provided further*, That no warrant or part of warrant shall be satisfied in scrip, founded or issued on any allowance made by the executive of Virginia since the first day of March, eighteen hundred and fifty-two.

Proviso

10 Stat. 143; 12 *id.* 84. 9 Op. Att. Gen. 156, 352, 354; 6 *id.* 243; 7 *id.* 32, 652. Cir. G. L. O., July 20, 1875 (Copp's L. L. 742).

NOTE.—For laws relating to agricultural-college scrip and swamp-land indemnity locations, see General Grants to States and Territories, chapter xii.

For laws relating to soldiers' additional homestead claims, see Homesteads, chapter viii.

For certificates of deposit to be used by settlers in payment for public lands, see Surveys and Surveyors, chapter iii.

CHAPTER TWELVE.

GENERAL GRANTS TO STATES AND TERRITORIES.

Sec.	Sec.
352. Grant to new States.	365. (Continued.)
353. Selections and locations of lands granted in last section.	benefit of grant. Assent of States to be given prior to July 1, 1874.
354. Grant of swamp and overflowed lands to certain States to aid in construction of levees, &c.	366. Fees of land officers.
355. Secretary of Interior to make lists of such lands for transmission to the governors of the States.	367. Governors of States to report annually to Congress.
356. Legal subdivisions mostly wet and unfit for cultivation.	368. New States entitled to benefits of grant.
357. Indemnity to States where lands have been sold by United States.	369. Nevada may select double-minimum lands not mineral.
358. Patents to issue for swamp lands to purchasers and locators prior to issuing of patents to States, &c.	370. Selection of lands granted to California, &c.
359. Selections of swamp and overflowed lands confirmed.	371. Selection of lands granted to Oregon, &c.
360. Swamp-land grants to Oregon and Minnesota.	372. Selections by Oregon confirmed except when legally appropriated.
361. Public lands not mineral granted to each State for purpose of establishing agricultural colleges.	373. Locations in excess of quantity allowed, confirmed.
362. Agricultural-college scrip, to be issued, when.	374. Certain excess locations in Wisconsin confirmed.
363. Proceeds of sales, how applied. Assignees of State to locate scrip. May be located on offered lands or received from pre-emption settlers in payment for lands.	375. Reissue of agricultural-college scrip.
364. Expenses of management, &c., to be paid by States. Moneys from sale of land and scrip to be invested, and interest applied to support of college of agriculture and mechanic arts.	376. Settlements before survey on sections 16 and 36, deficiencies thereof.
365. Conditions of grant, assent of States. Diminution of fund to be made up by State. Annual interest to be applied regularly. Funds to be expended for buildings. College to be furnished or moneys refunded to United States. Annual reports of colleges. Computation when double-minimum lands are selected. States in rebellion not entitled to	377. Selections to supply deficiencies of school lands.
	378. Fee-simple to pass in all grants of land to States and Territories, when.
	379. Certain States to be paid 10 per cent. on net proceeds of sales of public lands therein, &c.
	380. After deducting said 10 per cent., &c., residue to be divided among States of Union, how. To be applied as legislature may direct.
	381. Net proceeds of sales of public lands payable at the Treasury half-yearly, to whom.
	382. Money due to be first applied to payment of debts to United States.
	383. Length of continuation of this grant.
	384. Not less than \$150,000 to be appropriated annually for surveys.
	385. Amount due on State stocks held by United States in trust, to be withheld in case of default of principal or interest.

SEC. 352. There is granted, for purposes of internal improvement, to each new State hereafter admitted into the Union, upon such admission, so much public land as, including the quantity that was granted to such State before its admission and while under a Territorial government, will make five hundred thousand acres. Grant to new States.

5 Stat. 455; R. S. 2378. *Foley v. Harrison*, 15 How. 433; *Shepley v. Cowan*, 1 Otto, 330. *Patterson v. Saturn*, 3 Saw. C. C. 164. *Dall v. Meador*, 16 Cal. 296; *Van Valkenburg v. McCloud*, 21 *id.* 330; *Megerle v. Ashe*, 27 *id.* 322; *Bludworth v. Lake*, 33 *id.* 255.

Selections and
locations of lands
granted in last
section.

SEC. 353. The selections of lands, granted in the preceding section, shall be made within the limits of each State so admitted into the Union, in such manner as the legislatures thereof, respectively, may direct; and such lands shall be located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, on any public land not reserved from sale by law of Congress or by proclamation of the President. The locations may be made at any time after the public lands in any such new State have been surveyed according to law.

5 Stat. 455; R. S. 2379. *Shepley v. Cowan*, 1 Otto, 330. *Patterson v. Saturn*, 3 Saw. C. C. 164. 4 Op. Att. Gen. 71. *Dall v. Meador*, 16 Cal. 296; *Van Valkenburg v. McCloud*, 21 id. 330; *Terry v. Megerle*, 24 id. 609; *Megerle v. Ashe*, 27 id. 322; *Bludworth v. Lake*, 33 id. 255; *Farrish v. Coon*, 40 id. 33; *Hastings v. Jackson*, 46 id. 234; *Shepley v. Cowan*, 52 Mo. 559. Decisions Sec. Int., Jan. 15, 1856 (1 *Lester's L. L.* 555); Nov. 10, 1856 (1 id. 507); April 20, 1859 (1 id. 563); Dec. 9, 1859 (1 id. 457); Sept. 26, 1871 (Copp's L. L. 446); Sept. 18, 1872 (id. 326, 446); Nov. 19, 1878 (5 Copp's L. O. 158). Cir. G. L. O., Feb. 21, 1846 (1 *Lester's L. L.* 500); Aug. 6, 1847 (1 id. 501); Jan. 5, 1872 (Copp's L. L. 453).

Grant of swamp
and overflowed
lands to certain
States to aid in
construction of
levees, &c.

SEC. 354. To enable the several States (but not including the States of Kansas, Nebraska, Nevada, and Colorado) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein—the whole of the swamp and overflowed lands, made unfit thereby for cultivation, and remaining unsold on or after the twenty-eighth day of September, A. D. eighteen hundred and fifty, are granted and belong to the several States respectively, in which said lands are situated: *Provided, however*, That said grant of swamp and overflowed lands, as to the State of California, Minnesota, and Oregon, is subject to the limitations, restrictions and conditions hereinafter named and specified, as applicable to said three last-named States, respectively.

Proviso.

9 Stat. 520; 12 id. 3; 13 id. 16; R. S. 2479. *Railway Co. v. Fremont*, 9 Wall. 29; *Railway Co. v. Smith*, 9 id. 95; *Martin v. Marks*, 7 Otto, 345; *American Emigrant Co. v. County of Adams*, 10 id. 61; *Same v. Wright Co.*, S. C., Dec. T. 1877, in manuscript. 9 Op. Att. Gen. 253; id. March 4, 1878, in manuscript. *Dunklin v. Dist. Co. Ct.*, 23 Mo. 449; *Railway Co. v. Smith*, 40 id. 310; *State v. Register*, 48 id. 59; *Foster v. Evans*, 51 id. 39; *Clarkson v. Buchanan*, 53 id. 563; *Campbell v. Wortman*, 58 id. 258; *Funkhouser v. Peek*, 67 id. 20; *Fletcher v. Pool*, 20 Ark. 100; *Branch v. Mitchell*, 24 id. 432; *Ringo v. Rotan*, 29 id. 56; *Kile v. Tubbs*, 23 Cal. 431; *Owens v. Jackson*, 9 id. 322; *Summers v. Dickinson*, 9 id. 558; *People v. Stratton*, 25 id. 242; *People v. Merrill*, 26 id. 336; *Kernan v. Griffith*, 27 id. 87; *Carter v. Baxter*, 28 id. 99; *Thornton v. Thompson*, 28 id. 602; *Hogar v. Lucas*, 29 id. 309; *Keenan v. Griffith*, 31 id. 462; *Keenan v. Allen*, 33 id. 542; *Keenan v. Griffith*, 34 id. 580; *Kimball v. Reclamation Comrs*, 45 id. 344; *Read v. Caruthers*, 47 id. 181; *Wright v. Carpenter*, 47 id. 436; *Savings Bank v. Hynes*, 50 id. 195; *Busch v. Donohue*, 31 Mich. 481; *Atty-Gen. v. Thomas*, 31 id. 365; *Boyce v. Slambaugh*, 34 id. 348; *State v. Hastings*, 11 Wis. 448; *Barrett v. Brooks*, 21 Iowa, 144; *Fremont Co. v. Railway Co.*, 22 id. 91; *Railway Co. v. Brown*, 40 id. 333; *Pago Co. v. Railway Co.*, 40 id. 520; *Murphy v. Ewing*, 22 Ind. 297; *Edmondson v. Core*, 62 id. 17; *Supervisors v. State's Atty*, 31 Ills. 68; *Gratham v. Atkins*, 63 id. 359; *Thompson v. Prince*, 67 id. 281; *Keller v. Brickley*, 78 id. 133; *Gaston v. Scott*, 5 Oreg. 48. Decisions Sec. Int., Dec. 23, 1851 (1 *Lester's L. L.* 540); Nov. 20, 1855; June 21, 1856 (1 *Lester's L. L.* 555); Aug. 28, 1856; Jan. 17, 1859 (1 *Lester's L. L.* 567); July 23, 1859 (1 id. 570); Aug. 17,

1858; Feb. 8, 1860; April 25, 1862; June 27, 1862; June 1, 1871; Nov. 11, 1873; Dec. 9, 1874; July 9, 1875; Aug. 24, 1876; Sept. 9, 1876; May 5, 1877 (7 Copp's L. O. 63); Dec. 21, 1877 (4 *id.* 151); June 28, 1880 (7 *id.* 70). Decisions Com. G. L. O., Dec. 21, 1853 (1 Lester's L. L. 551); Jan. 19, 1874 (Copp's L. L. 473; 1 Copp's L. O. 5).

SEC. 355. It shall be the duty of the Secretary of the Interior, to make accurate lists and plats of all such lands, and transmit the same to the governors of the several States in which such lands may lie, and at the request of the governor of any State in which said swamp and overflowed lands may be, to cause patents to be issued to said State therefor, conveying to said State the fee-simple of said land.

Secretary of the Interior to make lists of such lands for transmission to the governors of the States.

The proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the reclaiming said lands, by means of levees and drains.

9 Stat. 519; R. S. 2480. *Railway Co. v. Smith*, 9 Wall. 95; *French v. Fyan*, 3 Otto, 169; *Martin v. Marks*, 7 *id.* 345; *American Emigrant Co. v. County of Adams*, 10 *id.* 61. *Railway Co. v. Smith*, 40 Mo. 310; *Clarkson v. Buchanan*, 53 *id.* 563; *Lockwood v. Railway Co.*, 65 *id.* 233; *Funkhouser v. Peck*, 67 *id.* 20; *Birch v. Gilles*, 67 *id.* 102; *Kernan v. Griffith*, 27 Cal. 87; *Busch v. Donohue*, 31 Mich. 481; *State v. Hastings*, 11 Wis. 448; *Thompson v. Pierce*, 67 Ills. 281; *Gaston v. Scott*, 5 Oreg. 48; *Barrett v. Brooks*, 21 Iowa, 144; *Fremont Co. v. Railway Co.*, 22 *id.* 91; *Boynton v. Miller* 22 *id.* 579; *Kettner v. Story Co.*, 23 *id.* 35; *Railway Co. v. Brown*, 40 *id.* 333; *Pago Co. v. Railway Co.*, 40 *id.* 520. Decisions Sec. Int., Dec. 23, 1851 (1 Lester's L. L. 549); July 7, 1855; Sept. 18, 1855 (1 Lester's L. L. 553); Oct. 4, 1855 (1 *id.* 553); Jan. 15, 1856 (1 *id.* 555); Dec. 19, 1857 (1 *id.* 557); Oct. 24, 1858 (1 *id.* 562); Jan. 17, 1859 (1 *id.* 567); April 20, 1859 (1 *id.* 568); May 21, 1859 (1 *id.* 569); June 25, 1859 (1 *id.* 569); Aug. 1, 1859 (1 *id.* 571); April 25, 1862; June 27, 1862; April 19, 1877 (4 Copp's L. O. 92); May 5, 1877 (4 *id.* 63); Dec. 4, 1877; May 2, 1878 (5 Copp's L. O. 124); Jan. 6, 1879; Sept. 19, 1879; April 5, 1880 (7 Copp's L. O. 27). Decisions Com. G. L. O., Dec. 21, 1853 (1 Lester's L. L. 551); Jan. 22, 1858 (1 *id.* 559); Jan. 27, 1876 (2 Copp's L. O. 180). *Cir. G. L. O.*, Nov. 21, 1850 (1 Lester's L. L. 543; *Zab. L. L.* 317); April 8, 1854; Feb. 11, 1856 (1 Lester's L. L. 545); Jan. 5, 1872 (Copp's L. L. 483); Jan. 15, 1874 (*id.* 472; 1 Copp's L. O. 41).

SEC. 356. In making out lists and plats of the lands aforesaid all legal subdivisions, the greater part whereof is wet and unfit for cultivation, shall be included in said lists and plats, but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

Legal subdivisions mostly wet and unfit for cultivation.

9 Stat. 519; R. S. 2481. *French v. Fyan*, 3 Otto, 169; *American Emigrant Co. v. Adams Co.*, 10 *id.* 61. 11 Op. Att. Gen. 467; *id.* July 25, 1877, in manuscript. *Fletcher v. Pool*, 20 Ark. 100; *Funkhouser v. Peck*, 67 Mo. 20; *Keller v. Brickey*, 78 Ills. 133; *Owens v. Jackson*, 9 Cal. 322; *Summers v. Dickinson*, 9 *id.* 554; *Carter v. Baxter*, 28 *id.* 99; *Thornton v. Thompson*, 28 *id.* 602; *Hagar v. Lucas*, 29 *id.* 309; *Keenan v. Griffith*, 31 *id.* 462; *Keenan v. Allen*, 33 *id.* 542; *Keenan v. Griffith*, 34 *id.* 580; *Taylor v. Underhill*, 40 *id.* 471; *Read v. Caruthers*, 47 *id.* 181; *Wright v. Carpenter*, 47 *id.* 436. Decision Sec. Int., Oct. 13, 1876 (3 Copp's L. O. 119). Decisions Com. G. L. O., Dec. 21, 1853 (1 Lester's L. L. 551); Jan. 22, 1858 (1 *id.* 559); Jan. 27, 1876 (2 Copp's L. O. 180). *Cir. G. L. O.*, Nov. 21, 1850 (1 Lester's L. L. 543; *Zab. L. L.* 317); April 8, 1854; Feb. 11, 1856 (1 Lester's L. L. 545; *Zab. L. L.* 320); Jan. 15, 1874 (Copp's L. L. 472). *Manual of Surveying Instructions* (1 Lester's L. L. 718).

Indemnity to
States where
lands have been
sold by United
States.

SEC. 357. Upon proof by the authorized agent of the State, before the Commissioner of the General Land Office, that any of the lands purchased by any person from the United States, prior to March third, eighteen hundred and fifty-seven, were "swamp lands," within the true intent and meaning of the act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," approved September twenty-eight, eighteen hundred and fifty, the purchase money shall be paid over to the State wherein said land is situate; and when the lands have been located by warrant or scrip, the said State shall be authorized to locate a like quantity of any of the public lands subject to entry, at one dollar and twenty-five cents per acre, or less, and patents shall issue therefor. The decision of the Commissioner of the General Land Office shall be first approved by the Secretary of the Interior.

10 Stat. 634, 635; 11 *id.* 251; R. S. 2482. *American Emigrant Co. v. Adams Co.*, 10 Otto, 61. 11 Op. Att. Gen. 467; *id.* July 25, 1877, in manuscript. *Fletcher v. Pool*, 20 Ark. 100. *Decisions Sec. Int.*, July 7, 1855 (1 *Lester's L. L.* 552); Jan. 14, 1856 (1 *id.* 554); Feb. 6, 1861; March 31, 1861; May 8, 1861; April 25, 1862; March 12, 1863; April 23, 1866; Feb. 8, 1868; June 17, 1868; Feb. 2, 1874 (*Copp's L. L.* 480); May 2, 1878 (5 *Copp's L. O.* 124); June 6, 1878 (5 *id.* 125); Dec. 9, 1878 (7 *id.* 9); April 6, 1880 (7 *id.* 23); June 28, 1880 (7 *id.* 70). *Cir. G. L. O.*, March 13, 1872 (*Copp's L. L.* 479); Jan. 22, 1877; Aug. 12, 1878 (5 *Copp's L. O.* 173); Feb. 17, 1879 (7 *id.* 9).

Patents to issue
for swamp lands
to purchasers and
locators prior to
issuing of patents
to States, &c.

SEC. 358. The President of the United States shall cause patents to be issued to the purchaser or purchasers, locator or locators, who made entries of the public lands claimed as swamp lands, either with cash or land warrants, or scrip, or under any homestead or pre-emption laws prior to the issue of patents to the State or States: *Provided*, That in all cases where any State through its constituted authorities, may have sold or disposed of any tract or tracts of land prior to the entry sale or location of the same under the pre-emption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land, until such State through its constituted authorities, shall release its claim thereto in such form as shall be prescribed by the Secretary of the Interior. In all cases where such State did not within ninety days from the second day of March, eighteen hundred and fifty-five, the date of an act entitled "An act for the relief of purchasers and locators of swamp and overflowed lands" through its constituted authorities, return to the General Land Office of the United States, a list of all the lands sold as aforesaid, together with the dates of such sales and the names of the purchasers, the President shall issue patents to persons who made such entries of the public lands so claimed as swamp land.

10 Stat. 634; R. S. 2483. *Dale v. Turner*, 34 Mich. 405. *Decisions Sec. Int.*, Nov. 18, 1856 (1 *Lester's L. L.* 556); Nov. 1, 1858 (1 *id.* 563). *Decisions Com. G. L. O.*, Jan. 2, 1858 (1 *Lester's L. L.* 557); May 5, 1874 (1 *Copp's L. O.* 39).

Selection of
swamp and over-
flowed lands con-
firmed.

SEC. 359. All lands selected and reported to the General Land Office as swamp and overflowed land by the several States entitled to the provisions of said act of September

twenty-eight, eighteen hundred and fifty, prior to March third, A. D. eighteen hundred and fifty-seven, are confirmed to said States respectively so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under any law of the United States.

11 Stat. 251; R. S. 2444. *Martin v. Marks*, 7 Otto, 345. 11 Op. Att. Gen. 467; *id.* July 25, 1877, in manuscript. *Frankhouser v. Peck*, 67 Mo. 20; *Keenan v. Allen*, 33 Cal. 542; *Dale v. Turner*, 34 Mich. 405; *Davis v. Filer*, 40 *id.* 310; *Fremont Co. v. Railway Co.*, 22 Iowa, 91; *American Emigrant Co. v. Railway Co.*, 47 *id.* 515; *Gratham v. Atkins*, 63 Ills. 357; *Smith v. Goodell*, 66 *id.* 450. *Decisions Sec. Int.*, Jan. 8, 1858 (1 *Lester's L. L.* 558); Aug. 12, 1858 (1 *id.* 561); Nov. 1, 1858 (1 *id.* 563); Dec. 10, 1858 (1 *id.* 565); Feb. 8, 1860; March 26, 1861; May 2, 1878 (6 *Copp's L. O.* 76); June 14, 1878.

SEC. 360. The provisions of the act of Congress entitled "An act to enable the State of Arkansas and other States to redeem" the swamp lands within their limits, approved September twenty-eight, A. D. eighteen hundred and fifty, extend to the States of Minnesota and Oregon: *Provided*, That the grant shall not include any lands which the Government of the United States may have sold or disposed of under any law, enacted prior to March twelve, eighteen hundred and sixty, prior to the confirmation of title to be made under the authority of said act—and the selections to be made from lands already surveyed in each of the States last named, under the authority of the act aforesaid, shall have been made within two years from the adjournment of the legislature of each State, at its next session after the twelfth day of March, A. D. eighteen hundred and sixty—and as to all lands surveyed or to be surveyed, thereafter, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed.

Swamp-land grants to Oregon and Minnesota.

Proviso.

12 Stat. 3; R. S. 2490. *Gaston v. Scott*, 5 Oreg. 44. *Decisions Sec. Int.* Dec. 2, 1874 (*Copp's L. L.* 475); Sept. 9, 1876 (3 *Copp's L. O.* 99); Oct. 13, 1876 (3 *id.* 119); Dec. 2, 1876 (3 *id.* 172); Dec. 4, 1877 (4 *id.* 149); June 6, 1879 (5 *id.* 179); April 15, 1880 (7 *id.* 28); June 4, 1880 (7 *id.* 53).

SEC. 361. There is granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of eighteen hundred and sixty: *Provided*, That no mineral lands shall be selected or purchased under the provisions of this grant.

Public lands, not mineral, granted to each State for purposes of establishing agricultural colleges.

Proviso.

12 Stat. 503. *Cir. G. L. O.*, May 4, 1863 (*Zab. L. L.* 445); July 20, 1875 (*Copp's L. L.* 486).

SEC. 362. The land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and whenever there are public lands in a State subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands within the limits of such State, and

Agricultural collegescripto be issued where there is no sufficient offered land in any State to satisfy the grant.

the Secretary of the Interior is hereby directed to issue to each of the States in which there is not the quantity of public lands subject to sale at private entry at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this grant, land scrip to the amount in acres for the deficiency of its distributive share: said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed by this grant, and for no other use or purpose whatsoever: *Provided*, That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any Territory of the United States, but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry at one dollar and twenty-five cents, or less, per acre, or shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as is now authorized by law in case of military bounty-land warrants: *Provided further*, That not more than one million acres shall be located by such assignees in any one of the States, and not more than three sections of land in any one township shall be entered with said scrip, and no location made prior to July second, eighteen hundred and sixty-three, shall be valid.

12 Stat. 504; 15 *id.* 227; 16 *id.* 186; R. S. 2278. Decisions Com. G. L. O., Jan. 30, 1873 (Copp's Mg. Dec. 157). Cir. G. L. O., May 4, 1863 (Zab. L. L. 445); Aug. —, 1868 (*id.* 448); July 22, 1870 (Copp's L. L. 794); Jan. 5, 1872 (*id.* 483); Feb. 8, 1872 (*id.* 795); June 17, 1875 (*id.* 179); July 20, 1875 (*id.* 486; 2 Copp's L. O. 90). General Cir. G. L. O., Sept. 1, 1879, p. 7.

Proceeds of sales, how applied.

Assignees of State to locate scrip.

May be located on offered lands or received from pre-emption settlers in payment for their lands. Limitations.

Expenses of management, &c., to be paid by States.

SEC. 363. All the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of the moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied without any diminution whatever to the purposes herein-after mentioned.

12 Stat. 504.

Moneys from sale of land and scrip to be invested and interest applied to support of college of agriculture and the mechanic arts.

SEC. 364. All moneys derived from the sale of the lands aforesaid by the States to which the lands are apportioned, and from the sales of land scrip, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per centum upon the par value of said stocks; and the money so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, except as herein provided, and the interest of which shall be inviolably appropriated, by each State, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the

industrial classes in the several pursuits and professions in life.

12 Stat. 504.

SEC. 365. The grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as to the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

Conditions of grant; assent of States.

First. If any portion of the fund invested, as provided by the preceding section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in this grant, except that a sum, not exceeding ten per centum upon the amount received by any State, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States.

Diminution of fund to be made up by State.

Annual interest to be applied regularly.

12 Stat. 504.

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretence whatever, to the purchase, erection, preservation, or repair of any building or buildings.

No funds to be expended for buildings.

12 Stat. 504.

Third. Any State claiming the benefit of the provisions of this grant shall provide, on or before July first, eighteen hundred and seventy-four, not less than one college, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and the title to purchasers under the State shall be valid.

College to be furnished or moneys refunded to United States.

12 Stat. 504; 13 *id.* 47; 14 *id.* 208; 17 *id.* 416, 417.

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their cost and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed by this grant, and one copy to the Secretary of the Interior.

Annual reports of colleges.

12 Stat. 505.

Fifth. When lands shall be selected from those which have been raised to double the minimum price, in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionally diminished.

Computation when double-minimum lands are selected.

12 Stat. 505.

Sixth. No State while in a condition of rebellion or insurrection against the Government of the United States shall be entitled to the benefit of this grant.

States in rebellion not entitled to benefit of grant. [Obsolete.]

12 Stat. 505.

Assent of State
to be given prior
to July 1, 1874.

Seventh. No State shall be entitled to the benefits of this grant unless it shall have expressed its acceptance thereof by its legislature on or before July first, eighteen hundred and seventy-four.

12 Stat. 505; 13 *id.* 47; 14 *id.* 208; 17 *id.* 416, 417.

Fees of land of-
ficers.

SEC. 366. The land officers shall receive the same fees for locating agricultural-college scrip as are now allowed for the location of military bounty-land warrants under existing laws: *Provided*, Their maximum compensation shall not be thereby increased.

12 Stat. 505.

Governors of
States to report
annually to Con-
gress.

SEC. 367. The governors of the several States to which scrip shall be issued under this grant shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

12 Stat. 505.

New States en-
titled to benefits
of grant.

SEC. 368. When any Territory shall become a State and be admitted into the Union, such new State shall be entitled to the benefits of this grant, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance.

14 Stat. 208, 209. Cir. G. L. O., May 4, 1863 (Zab. L. L. 445).

Nevada may se-
lect double-min-
imum lands not
mineral.

SEC. 369. The State of Nevada is authorized to select the alternate even-numbered sections within the limits of any railroad grant in said State, in satisfaction of her grant of lands under the act of July second, eighteen hundred and sixty-two, and acts amendatory thereof, but this privilege shall not extend to lands upon which there may be any rightful claims under the pre-emption and homestead laws; and if lands be selected, the minimum price of which is two dollars and fifty cents per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is one dollar and twenty-five cents per acre; but lands valuable for mines of gold, silver, quicksilver, or copper shall not be selected in satisfaction of this grant.

12 Stat. 503, 504, 505; 15 *id.* 67, 68.

Selection of
lands granted to
California.

SEC. 370. The lands granted to the State of California for the establishment of an agricultural college by the act of July second, eighteen hundred and sixty-two, and acts amendatory thereto, may be selected by said State from any lands within said State subject to pre-emption, settlement, entry, sale, or location, under any laws of the United States. Such selection may be made in any legal subdivisions, adjoining by sides, so as to constitute bodies of not less than one hundred and sixty acres; or they may be made in separate subdivisions of forty, eighty, or one hundred and

Limitation to
privilege of selec-
tion.

If double-min-
imum lands are
selected, State to
pay the difference
in price.

twenty acres, respectively: *Provided*, That this privilege shall not extend to lands upon which there may be rightful claims under the pre-emption and homestead laws, nor to mineral lands: *Provided further*, That if lands be selected as afore-said, the minimum price of which is two dollars and fifty

cents per acre, they shall be taken acre for acre in part satisfaction of the grant, and the State of California shall pay to the United States the sum of one dollar and twenty-five cents per acre for each acre so selected, when the same shall be patented to the State by the United States: *Provided* Where lands sought to be selected are unsurveyed. *further*, That where lands sought to be selected for the agricultural college, are unsurveyed, the proper authorities of the State shall file a statement to that effect with the register of the United States land office, describing the land by township and range, and shall make application to the United States surveyor-general for a survey of the same, Survey. the expenses of the survey for field work to be paid by the State, provided there be no appropriation by Congress for that purpose. The United States surveyor-general, as soon as practicable, shall have the said lands surveyed and the township plats returned to the United States land office, and lands so surveyed and returned shall, for thirty days after the filing of the plats in the United States land office, be held exclusively for location for the agricultural college, and within said thirty days the proper authorities of the State shall make application to the United States land office for the lands sought to be located by sections Locations, when and how made. and parts of sections: *Provided*, That any rights under the pre-emption or homestead laws, acquired prior to the filing of the required statement with the register, shall not be impaired or affected by this act: *Provided further*, That such selections shall be made in every other respect subject to the conditions, restrictions, and limitations contained in the acts hereby modified. Pre-emption and homestead rights not affected. Selections, how to be made.

12 Stat. 503, 504, 505; 15 *id.* 67, 68; 16 *id.* 581. Decisions Sec. Int., Nov. 2, 1871 (Copp's L. L. 443). Cir. G. L. O., March 23, 1871 (Copp's L. L. 440); July 8, 1873 (*id.* 441).

SEC. 371. The lands granted to the State of Oregon, for the establishment of an agricultural college, by act of July second, eighteen hundred and sixty-two, and acts amendatory thereto, may be selected by said State from any lands within said State subject to homestead or pre-emption entry under the laws of the United States; and in any case where land is selected by the State, the price of which is fixed by law at the double minimum of two dollars and fifty cents per acre, such land shall be counted as double the quantity toward satisfying the grant. Lands granted to Oregon for an agricultural college, selections of. If double-minimum land is selected such land to count double.

12 Stat. 503, 504, 505; 17 *id.* 217, 218.

SEC. 372. Any such selections made by said State prior to June fourth, eighteen hundred and seventy-two, are confirmed, except so far as they may conflict with any adverse legal right existing on that date: *Provided*, That the State shall not receive more than ninety thousand acres, the quantity granted by the act of July second, eighteen hundred and sixty-two: *Provided also*, That such lands shall not be sold by said State for less than two dollars and fifty cents per acre; and where settlement is made upon the same, preference in all cases shall be given to actual settlers at the price for which said lands may be offered. Selections confirmed except when legally appropriated. Proviso.

12 Stat. 503, 504, 505; 17 *id.* 217, 218.

Locations in excess of quantity allowed confirmed.

SEC. 373. All locations of agricultural-college scrip made within thirty days after the date of the approval of the act of July twenty-seven, eighteen hundred and sixty-eight, if otherwise in conformity with law, are hereby legalized and made valid.

16 Stat. 186.

[NOTE.—This act was designed to cure selections in excess of three sections to a township, which had been made by parties in ignorance of the limitation contained in the act of July 27, 1868; 15 Stat. 227.]

Certain excess locations in Wisconsin confirmed.

SEC. 374. All locations of agricultural-college scrip allowed prior to December first, eighteen hundred and sixty-seven, at the several land offices in the State of Wisconsin, in excess of the maximum quantity authorized by the act of July second, eighteen hundred and sixty-two are hereby legalized; and the Commissioner of the General Land Office is authorized to issue patents upon such locations: *Provided*, The same shall be in all other respect legal and valid.

16 Stat. 116.

Reissue of agricultural-college scrip.

SEC. 375. The provisions of the act of Congress of June twenty-third, eighteen hundred and sixty, relating to the reissue of land warrants in certain cases, are hereby extended so as to include the reissue of agricultural-college land scrip, lost, cancelled or destroyed without the fault of the owner thereof, under such rules and regulations as the Secretary of the Interior may prescribe.

12 Stat. 90, 91; 18 *id.* 111. Cir. G. L. O., Aug. 20, 1875 (Copp's L. L. 486; 1 Copp's L. O. 108).

Settlements before survey on sections 16 or 36; deficiencies thereof.

SEC. 376. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

11 Stat. 385; 18 *id.* 202; R. S. 2275. *Minnesota v. Bachelder*, 1 Wall. 109; *Sherman v. Buick*, 3 Otto, 209; *Water and Mining Co. v. Bugbee*, 6 *id.* 165. *Minnesota v. Bachelder*, 7 Minn. 121; *Layton v. Farrell*, 11 Nov. 451; *Railway Co. v. Robinson*, 49 Cal. 446. Decisions Sec. Int., March 14, 1862; March 28, 1873 (Copp's L. L. 483); March 10, 1876; April 12, 1879. Decision Com. G. L. O., June 13, 1879 (6 Copp's L. O. 153). Cir. G. L. O., May 17, 1844 (1 Lester's L. L. 492); Aug. 21, 1862 (Copp's L. L. 437).

Selections to supply deficiencies of school lands.

SEC. 377. The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire

township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters, of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one-half section; and for a fractional township, containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one quarter-section of land.

4 Stat. 179; 11 *id.* 385; 18 *id.* 202; R. S. 2276. Decision Sec. Int., Dec. 2, 1876 (3 Copp's L. O. 172). Cir. G. L. O., May 17, 1844 (1 Lester's L. L. 492); Aug. 21, 1862 (Copp's L. L. 437); Jan. 5, 1872 (*id.* 483).

SEC. 378. Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the list of such lands which have been or may hereafter be certified by the Commissioner of the General Land Office, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee-simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

Fee-simple to pass in all grants of land to States and Territories.

10 Stat. 346; 18 *id.* 475; R. S. 2449. *Shepley v. Cowan*, 52, Mo. 559. Decisions Sec. Int. (5 Copp's L. O. 158); Jan. 23, 1880 (6 *id.* 193).

SEC. 379. From and after the thirty-first day of December, in the year of our Lord one thousand eight hundred and forty-one, there shall be allowed and paid to each of the States of Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan, over and above what each of the said States is entitled to by the terms of the compacts entered into between them and the United States, upon their admission into the Union, the sum of ten per centum upon the net proceeds of the sales of the public lands, which, subsequent to the day aforesaid, shall be made within the limits of each of said States respectively: *Provided*, That the sum so allowed to the said States, respectively, shall be in no wise affected or diminished on account of any sums which have been heretofore, or shall be hereafter, applied to the construction or continuance of the Cumberland road, but that the disbursements for the said road shall remain, as heretofore, chargeable on the two per centum fund provided for by compacts with several of the said States.

Certain States to be paid 10 per cent. on net proceeds of sales of public lands therein, &c.

Proviso.

5 Stat. 453. Decision Com. G. L. O., June 23, 1842. Decision First Compt. of Treas., Oct. 10, 1842.

SEC. 380. After deducting the said ten per centum, and what, by the compacts aforesaid, has heretofore been allowed to the States aforesaid, the residue of the net proceeds, after deducting said 10 per cent., &c., residue to be divided among

the States, &c., which net proceeds shall be ascertained by deducting from of the Union; the gross proceeds all the expenditures of the year for the how. following objects: Salaries and expenses on account of the

To be applied as the legislatures may direct.

Proviso.

General Land Office; expenses for surveying public lands; salaries and expenses in the surveyor-general's offices; salaries, commissions, and allowances to the registers and receivers; the five per centum to new States, of all the public lands of the United States, wherever situated, which shall be sold subsequent to the said thirty-first day of December, shall be divided among the twenty-six States of the Union and the District of Columbia, and the Territories of Wisconsin, Iowa, and Florida, according to their respective federal representative population as ascertained by the last census, to be applied by the legislatures of the said States to such purposes as the said legislatures may direct: *Provided*, That the distributive share to which the District of Columbia shall be entitled, shall be applied to free schools, or education in some other form, as Congress may direct: *And provided, also*, That nothing herein contained shall be construed to the prejudice of future applications for a reduction of the price of the public lands, or to the prejudice of applications for a transfer of the public lands, on reasonable terms, to the States within which they lie, or to make such future disposition of the public lands, or any part thereof, as Congress may deem expedient.

5 Stat. 453. Decision Com. G. L. O., June 23, 1842. Decision First Compt. of Treas., Oct. 10, 1842.

Net proceeds of sales of public lands, payable at the Treasury half yearly, to whom.

SEC. 381. The several sums of money received in the Treasury as the net proceeds of the sales of the public lands shall be paid at the Treasury half-yearly on the first day of January and July in each year, during the operation of this act, to such person or persons as the respective legislatures of the said States and Territories, or the governors thereof, in case the legislatures shall have made no such appointment, shall authorize and direct to receive the same.

5 Stat. 454.

Money due and payable by this act to be first applied to payments of debts due United States.

Proviso.

SEC. 382. Any sum of money, which at any time may become due, and payable to any State of the Union, or to the District of Columbia, by virtue of this act, as the portion of the said State or District, of the proceeds of the sales of the public lands, shall be first applied to the payment of any debt, due, and payable from the said State or District, to the United States: *Provided*, That this shall not be construed to extend to the sums deposited with the States under the act of Congress of twenty-third June, eighteen hundred and thirty-six, entitled "An act to regulate the deposits of the public money," nor to any sums apparently due to the United States as balances of debts growing out of the transactions of the revolutionary war.

5 Stat. 454.

Length of continuation of this grant.

SEC. 383. This act shall continue and be in force until otherwise provided by law, unless the United States shall become involved in war with any foreign power, in which event, from the commencement of hostilities, the four preceding sections of this act shall be suspended during the

continuance of such war: *Provided, nevertheless,* That if, prior to the expiration of this act, any new State or States shall be admitted into the Union, there be assigned to such new State or States, the proportion of the proceeds accruing after their admission into the Union, to which such State or States may be entitled, upon the principles of this act, together with what such State or States may be entitled to by virtue of compacts to be made on their admission into the Union. Proviso.

5 Stat. 454.

SEC. 384. There shall be annually appropriated for completing the surveys of said lands, a sum not less than one hundred and fifty thousand dollars; and the minimum price at which the public lands are now sold at private sale shall not be increased, unless Congress shall think proper to grant alternate sections along the line of any canal or other internal improvement, and at the same time to increase the minimum price of the sections reserved; and in case the same shall be increased by law, except as aforesaid, at any time during the operation of this act, then so much of this act as provides that the net proceeds of the sales of the public lands shall be distributed among the several States, shall, from and after the increase of the minimum price thereof, cease and become utterly null and of no effect, anything in this act to the contrary notwithstanding: *Provided,* That if, at any time during the existence of this act, there shall be an imposition of duties on imports inconsistent with the provisions of the act of March second, one thousand eight hundred and thirty-three, entitled "An act to modify the act of the fourteenth of July, one thousand eight hundred and thirty-two, and all other acts imposing duties on imports," and beyond the rate of duty fixed by that act, to wit: twenty per cent. on the value of such imports, or any of them, then the distribution provided in this act shall be suspended and shall so continue until this cause of its suspension shall be removed, and when removed, if not prevented by other provisions of this act, such distribution shall be resumed. Not less than \$150,000 to be appropriated annually for surveys.
Proviso.

5 Stat. 454.

SEC. 385. Whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds, held by the United States in trust, it shall be the duty of the Secretary of the Treasury to retain the whole, or so much thereof as may be necessary, of the percentage to which such State may be entitled, of the proceeds of the sales of the public lands within its limits, and apply the same to the payment of said interest or principal, or to the reimbursement of any sums of money expended by the United States for that purpose. Amount due on State stocks held by United States in trust, to be withheld from States in case of default of principal or interest.

5 Stat. 801.

NOTE.—For all special laws granting lands or the net proceeds thereof to the several States for any purpose, see "Local and Temporary Laws," under the caption of each State.

CHAPTER THIRTEEN.

MINERAL LANDS.

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Mineral lands reserved.

SEC. 386. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

14 Stat. 86; 18 *id.* 476; R. S. 2318. U. S. v. Gear, 3 How. 120; Cooper v. Roberts, 18 *id.* 73; U. S. v. Gratiot, 14 Pet. 526; Sparrow v. Strong, 3 Wall. 97; Secretary v. McGarrahan, 9 *id.* 298; Morton v. Nebraska, 21 *id.* 660; Heydenfeldt v. Mining Co., 3 Otto, 634. U. S. v. Parrott, 1 McAllister, C. C. 272; U. S. v. Gratiot, 1 McLean, C. C. 454; Indiana v. Miller, 3 *id.* 151. 3 Op. Att. Gen. 277; 5 *id.* 247; 7 *id.* 636; 10 *id.* 184. Heydenfeldt v. Mining Co., 10 Nev. 290; Gold Hill Co. v. Ish, 5 Oreg. 104; Hicks v. Bell, 3 Cal. 219; Stoakes v. Barrett, 5 *id.* 36; People v. Folsom, 5 *id.* 373; Conger v. Weaver, 6 *id.* 548; Nims v. Johnson, 7 *id.* 111; Boggs v. Merced Mining Co., 14 *id.* 279; Burdgo v. Smith, 14 *id.* 380; Moore v. Smaw, 17 *id.* 199; Lentz v. Victor, 17 *id.* 272; Fremont v. Seals, 18 *id.* 433; Rogers v. Sogg, 22 *id.* 444; Ruple v. Welch, 23 *id.* 452; Doran v. Railway Co., 24 *id.* 245; Wixon v. Bear River Co., 24 *id.* 367; Ah Yow v. Choate, 24 *id.* 562; Higgins v. Houghton, 25 *id.* 252; Morton v. Solambo Mining Co., 26 *id.* 527; Alford v. Barnum, 45 *id.* 482; McLaughlin v. Powell, 50 *id.* 64; Titcomb v. Kirk, 51 *id.* 288. Decisions Sec. Int., 6 Copp's L. O. 4; 7 *id.* 23. Decisions Com. G. L. O., Copp's Mg. Dec. 308; 2 Copp's L. O. 82; 7 *id.* 4. Cir. G. L. O., April 22, 1880.

SEC. 387. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs and rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Mineral lands
open to purchase
by citizens.

17 Stat. 91; 19 *id.* 52; R. S. 2319. *Cooper v. Roberts*, 18 How. 173; *Sparrow v. Strong*, 3 Wall. 97; *Heydenfeldt v. Mining Co.*, 3 Otto, 634; *Forbes v. Gracey*, 4 *id.* 702. U. S. v. *Parrott*, 1 McAllister, C. C. 271; *Chapman v. Toy Long*, 4 Saw. C. C. 28; *Mt. Diablo Mg. Co. v. Callison*, 5 Saw. C. C. 439; *Stroud v. Railway Co.*, 4 Dillon, C. C. 396. *Hibschle v. Gildersleeve*, U. S. Dist. Ct. Colo. 1880, in manuscript. 14 Op. Att. Gen. 115; *id.* Aug. 6, 1875, in manuscript. *Rogers v. Coonoy*, 7 Nev. 213; *Golden Fleece Co. v. Cable Mg. Co.*, 12 *id.* 312; *Territory v. Lee*, 2 Montana, 124; *Gold Hill Co. v. Ish*, 5 Oreg. 104; *Hicks v. Bell*, 3 Cal. 219; *Stoakes v. Barrett*, 5 *id.* 36; *Tartar v. Spring Creek Co.*, 5 *id.* 395; *Bridge v. Underwood*, 6 *id.* 45; *Mitchell v. Hargood*, 6 *id.* 148; *Conger v. Weaver*, 6 *id.* 548; *Crandall v. Woods*, 8 *id.* 136; *Weimer v. Lowrey*, 11 *id.* 104; *Boggs v. Merced Mg. Co.*, 14 *id.* 279; *Henshaw v. Clark*, 14 *id.* 461; *Clark v. Duval*, 15 *id.* 85; *Smith v. Doe*, 15 *id.* 100; *Moore v. Snaw*, 17 *id.* 199; *Lentz v. Victor*, 17 *id.* 272; *Freemont v. Seals*, 18 *id.* 433; *Logan v. Driscoll*, 19 *id.* 623; *Rupley v. Welch*, 23 *id.* 452; *Ensminger v. McIntire*, 23 *id.* 593; *Doran v. Railway Co.*, 24 *id.* 245; *Richardson v. McNulty*, 24 *id.* 339; *Wixon v. Bear River Co.*, 24 *id.* 367; *Ah Yew v. Choate*, 24 *id.* 562; *Higgins v. Houghton*, 25 *id.* 252; *Morton v. Solambo Mg. Co.*, 26 *id.* 527; *Gibson v. Puchta*, 33 *id.* 310; *Levaroni v. Miller*, 34 *id.* 231; *Alford v. Barnum*, 45 *id.* 482; *McLaughlin v. Powell*, 50 *id.* 61; *Laird v. Waterford*, 50 *id.* 315; *Titcomb v. Kirk*, 51 *id.* 288. *Decisions Sec. Int.*, Aug. 26, 1871 (Copp's Mg. Dec. 60); Sept. 3, 1872 (*id.* 140); Jan. 2, 1875 (1 Copp's L. O. 178). *Decisions Com. G. L. O.*, June 7, 1871 (Copp's Mg. Dec. 43); July 10, 1873 (*id.* 209); July 15, 1873 (*id.* 316); July 26, 1873 (*id.* 214); May 2, 1874 (1 Copp's L. O. 4); Oct. 23, 1874 (1 *id.* 132); Jan. 30, 1875 (1 *id.* 79); June 30, 1875 (1 *id.* 79); Dec. 3, 1875; April 24, 1876 (3 Copp's L. O. 18); Nov. 13, 1877 (4 *id.* 179); Sept. 30, 1879.

SEC. 388. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

Length of min-
ing claims upon
veins or lodes.

17 Stat. 91; 19 *id.* 52; R. S. 2320. *Flagstaff Silver Mg. Co. v. Tarbet*, 8 Otto, 463. *The Eureka case*, 4 Saw. C. C. 302; *Mt. Diablo*

Mg. Co. v. Callison, 5 *id.* 439. *Mallett v. Uncle Sam Co.*, 1 Nev. 188; *State v. Rhodes*, 4 *id.* 312; *Foot v. National Mg. Co.*, 2 Montana, 402; *Moxon v. Wilkinson*, 2 *id.* 421; *Prosser v. Parks*, 18 Cal. 47; *Logan v. Driscoll*, 19 *id.* 623; *Tunnel Co. v. Stranahan*, 31 *id.* 387; *Correa v. Frietas*, 42 *id.* 339; *Harvey v. Bryan*, 42 *id.* 626; *Titcomb v. Kirk*, 51 *id.* 283. *Decisions Sec. Int.*, Aug. 26, 1874 (1 *Copp's L. O.* 83). *Decisions Com. G. L. O.*, Nov. 6, 1869 (*Copp's Mg. Dec.* 23); Sept. 23, 1870 (*id.* 32); Aug. 4, 1871 (*id.* 57); Aug. 25, 1871 (*id.* 59); March 19, 1873 (*id.* 164); May 1, 1873 (*id.* 195); May 20, 1873 (*id.* 201); June 17, 1873 (*id.* 207); July 10, 1873 (*id.* 209); Nov. 18, 1873 (*id.* 235); Feb. 11, 1875 (1 *Copp's L. O.* 179); Dec. 29, 1875 (2 *id.* 146); Aug. 24, 1876 (3 *id.* 82); May 4, 1880 (7 *id.* 35).

Proof of citizenship.

SEC. 389. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

17 Stat. 94; 19 *id.* 52; R. S. 2321. *Craig v. Bradford*, 3 Wheat. 594; *Gouverneur's heirs v. Robertson*, 11 *id.* 332; *Cross v. De Valle*, 1 Wall. 1; *Osterman v. Baldwin*, 6 *id.* 116; *Phillips v. Moore*, 10 Otto, 208. 5 Op. Att. Gen. 551; *id.* Aug. 6, 1875, in manuscript. *Jackson v. Beech, Johnson's Cases*, 401. *Decisions Sec. Int.*, Jan. 2, 1875 (1 *Copp's L. O.* 178); April 1, 1875 (2 *id.* 2); July 29, 1876 (3 *id.* 63); July 26, 1879 (*G. L. O. Rep.* 1879, p. 157). *Decisions Com. G. L. O.*, June 7, 1871 (*Copp's Mg. Dec.* 43); Aug. 13, 1872 (*id.* 134); Sept. 17, 1874 (1 *Copp's L. O.* 95); Oct. 28, 1875 (2 *id.* 114); April 14, 1876 (*G. L. O. Rep.* 1877, p. 83); July 18, 1876 (3 *Copp's L. O.* 69).

Locators' rights of possession and enjoyment.

SEC. 390. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another. No possessory action between individuals, in any court of the United States, for the recovery of any mining title, or for

damages to any such title, shall be affected by the fact that the paramount title to the land on which such mines are, is in the United States, but each case shall be adjudged by the law of possession.

13 Stat. 441; 17 *id.* 91; 19 *id.* 52; R. S. 910, 2322. *Sparrow v. Strong*, 3 Wall. 97; *Heydenfeldt v. Mining Co.*, 3 Otto, 634; *Forbes v. Gracey*, 4 *id.* 762; *Jennison v. Kirk*, 8 *id.* 453; *Flagstaff Silver Mg. Co. v. Tarbet*, 8 *id.* 463. The 420 Mg. Co. v. *The Bullion Co.*, 3 Saw. C. C. 634; *The Eureka Case*, 4 *id.* 302; *Chapman v. Toy Long*, 4 *id.* 28; *Kinney v. Con. Va. Mg. Co.*, 4 *id.* 382; *Mt. Diablo Mg. Co. v. Callison*, 5 *id.* 439; *Hibschle v. Gildersleeve*, U. S. Dist. Ct. Colo. 1880, in manuscript. *Hale et al. v. Story Co.*, 1 Nev. 104, *People v. Logan*, 1 *id.* 109; *Leet v. John Dare Mg. Co.*, 6 *id.* 218; *Overman Co. v. American Mg. Co.*, 7 *id.* 312; *Golden Fleecce Co. v. Cable Co.*, 12 *id.* 312; *Lincoln v. Rogers*, 1 Montana, 217; *Nelson v. O'Neil*, 1 *id.* 284; *Bucher v. Mulverhill*, 1 *id.* 306; *Robertson v. Smith*, 1 *id.* 410; *Atkins v. Hendree*, 1 Idaho, 107; *Gold Hill Mg. Co. v. Ish*, 5 Oreg. 104; *Patterson v. Hitchcock*, 3 Colo. 533; *Wolfey v. Lebanon Mg. Co.* 4 *id.* 112; *Fitzgerald v. Urton*, 5 Cal. 308; *Bridge v. Underwood*, 6 *id.* 215; *Mitchell v. Hargood*, 6 *id.* 148; *Sims v. Smith*, 7 *id.* 149; *Merced Mg. Co. v. Fremont*, 7 *id.* 317; *O'Keiff v. Cunningham*, 9 *id.* 589; *State v. Moore*, 12 *id.* 56; *Merritt v. Judd*, 14 *id.* 60; *Boggs v. Merced Mg. Co.*, 14 *id.* 279; *Henshaw v. Clark*, 14 *id.* 461; *Clark v. Duval*, 15 *id.* 85; *Smith v. Doe*, 15 *id.* 100; *Pennsylvania Mg. Co. v. Owens*, 15 *id.* 135; *Esmond v. Chew*, 15 *id.* 137; *Brown v. 49 and 56 Co.*, 15 *id.* 152; *Gillau v. Hutchinson*, 16 *id.* 154; *Coryell v. Cain*, 16 *id.* 567; *Attwood v. Fricot*, 17 *id.* 38; *English v. Johnson*, 17 *id.* 108; *Fremont v. Seals*, 18 *id.* 433; *Gore v. McBrayer*, 18 *id.* 582; *Logan v. Driscoll*, 19 *id.* 623; *Tunnel Co. v. Stranahan*, 20 *id.* 198; *Rogers v. Soggs*, 22 *id.* 444; *Gatewood v. McLaughlin*, 23 *id.* 178; *Hughes v. Devlin*, 23 *id.* 501; *Ensminger v. McIntire*, 23 *id.* 593; *Doran v. Railway Co.*, 24 *id.* 245; *Richardson v. McNulty*, 24 *id.* 339; *Wixon v. Bear River Co.*, 24 *id.* 367; *Higgins v. Houghton*, 25 *id.* 252; *St. John v. Kidd*, 26 *id.* 264; *Depuy v. Williams*, 26 *id.* 309; *Morton v. Solambo Mg. Co.*, 26 *id.* 527; *Hess v. Winder*, 30 *id.* 349; *Tunnel Co. v. Stranahan*, 31 *id.* 387; *Hardenburgh v. Bacon*, 33 *id.* 356; *Gibson v. Puchta*, 33 *id.* 310; *Levaroni v. Miller*, 34 *id.* 231; *Hess v. Winder*, 34 *id.* 270; *Pralus v. Jefferson Mg. Co.*, 34 *id.* 559; *Pralus v. Pacific Mg. Co.*, 35 *id.* 30; *Clark v. Willett*, 35 *id.* 535; *Maine Boys Co. v. Boston Co.*, 37 *id.* 40; *Bradley v. Lee*, 38 *id.* 362; *Correa v. Frietas*, 42 *id.* 339; *Harvey v. Bryan*, 42 *id.* 626; *Gregory v. Harris*, 43 *id.* 38; *Stone v. Bumpus*, 46 *id.* 218; *Quirk v. Tralk*, 47 *id.* 453; *Laird v. Waterford*, 50 *id.* 315; *Titecomb v. Kirk*, 51 *id.* 288; *Phoenix Co. v. Lawrence*, S. C. Cal. 1880, in manuscript. *Decisions Com. G. L. O.*, Sept. 28, 1878 (5 Copp's L. O. 116); May 4, 1880 (7 *id.* 35).

SEC. 391. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel. Owners of tunnels, right of.

17 Stat. 92; 19 *id.* 52; R. S. 2323. *Tunnel Co. v. Pell*, 4 Colo. 507; *Titecomb v. Kirk*, 51 Cal. 288. *Decisions Com. G. L. O.*, Sept. 20, 1872 (Copp's Mg. Dec. 144); April 15, 1873 (*id.* 193); Aug. 1, 1873

(*id.* 215); Nov. 3, 1876 (3 Copp's L. O. 130); Aug. 30, 1877 (4 *id.* 102); Jan. 6, 1878 (5 *id.* 134).

Subjects upon which miners may make regulations.

Conditions same are subject to.

What miners' records shall contain.

Annual expenditures.

Forfeiture and right of relocation.

Mode of forfeiture for failure of co-owners to contribute to annual expenditures.

SEC. 392. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year: *Provided*, That the period within which the work required to be done annually on all unpatented claims, so located, shall commence on the first day of January succeeding the date of location of such claim. On all claims located prior to the tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the first day of January, eighteen hundred and seventy-five, and each year thereafter, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the tenth day of May, eighteen hundred and seventy-two, and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. Upon a failure to comply with the foregoing conditions of annual expenditure, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: *Provided*, That the original locators, their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in

the claim shall become the property of his co-owners who have made the required expenditures.

- 17 Stat. 92; 18 *id.* 61, 315; 19 *id.* 52; 21 *id.* 61; R. S. 2324.
- Location, Record, and Evidence:* Campbell v. Rankin, 9 Otto, 261. Kinney v. Con. Va. Mg. Co., 4 Saw. C. C. 382. Hibschle v. Gildersleeve, U. S. Dist. Ct. Colo. 1880, in manuscript. Mallett v. Uncle Sam Co., 1 Nev. 108; Van Valkenburgh v. Huff, 1 *id.* 142; Chase v. Savage Mg. Co., 2 *id.* 9; Rogers v. Cooney, 7 *id.* 213; Philippotts v. Blasdell, 8 *id.* 61; Weill v. Lucerne Co., 11 *id.* 200; Golden Fleece Co. v. Cable Mg. Co., 12 *id.* 312; Gleason v. Martin White Co., 13 *id.* 442; Roberts v. Wilson, 1 Utah, 292; Connor v. McPhee, 1 Montana, 73; King v. Edwards, 1 *id.* 235; Bucher v. Mulverhill, 1 *id.* 306; Territory v. Lee, 2 *id.* 124; Moxon v. Wilkinson, 2 *id.* 421; Murley v. Ennis, 2 Colo. 300; Sullivan v. Hense, 2 *id.* 424; Patterson v. Hitchcock, 3 *id.* 533; Woldley v. Lebanon Co., 4 *id.* 112; Sears v. Taylor, 4 *id.* 38; Hicks v. Bell, 3 Cal. 219; Fairbanks v. Woodhouse, 6 *id.* 433; Live Yankee Co. v. Oregon Co., 7 *id.* 41; Packer v. Heaton, 9 *id.* 569; McGarity v. Byington, 12 *id.* 431; Water Co. v. Mooney, 12 *id.* 534; Pennsylvania Mg. Co. v. Owens, 15 *id.* 135; Lombards v. Ferguson, 15 *id.* 372; Gillan v. Hutchinson, 16 *id.* 154; Roach v. Gray, 16 *id.* 383; Attwood v. Fricot, 17 *id.* 38; English v. Johnson, 17 *id.* 108; Prosser v. Parks, 18 *id.* 47; Gore v. McBrayer, 18 *id.* 582; Downing v. Rankin, 19 *id.* 641; Tunnel Co. v. Stranahan, 20 *id.* 198; Kelloy v. Taylor, 23 *id.* 11; Coleman v. Clements, 23 *id.* 245; Mayo v. Tappin, 23 *id.* 306; Draper v. Douglas, 23 *id.* 347; Cary v. Campbell, 24 *id.* 634; St. John v. Kidd, 26 *id.* 264; Morton v. Solambo Mg. Co., 26 *id.* 527; Wilson v. Cleveland, 30 *id.* 192; Hess v. Winder, 30 *id.* 349; Patterson v. Keystone Mg. Co., 30 *id.* 360; Tunnel Co. v. Stranahan, 31 *id.* 387; King v. Randlett, 33 *id.* 318; Pralus v. Jefferson Mg. Co., 34 *id.* 559; Pralus v. Pacific Mg. Co., 35 *id.* 30; Bell v. Tunnel and Mg. Co., 36 *id.* 214; Bradley v. Lee, 38 *id.* 362; Hastings v. Devlin, 40 *id.* 358; Harvey v. Ryan, 42 *id.* 626; Strang v. Ryan, 46 *id.* 33; Meyers v. Farquharson, 46 *id.* 190; Quirk v. Tralk, 47 *id.* 453; McLaughlin v. Powell, 50 *id.* 64; Titcomb v. Kirk, 51 *id.* 288; Morenhaut v. Wilson, 52 *id.* 226; Stone v. Geyser, 52 *id.* 315; Holland v. M. A. G. Mg. Co., 53 *id.* 149; Gelcich v. Moriarity, 53 217; Phoenix Co. v. Lawrence, Myers v. Spooner, S. C. Cal. 1880, in manuscript. Decisions Com. G. L. O., April 1, 1875 (2 Copp's L. O. 2). Decisions Com. G. L. O., May 16, 1873 (Copp's Mg. Dec. 200); Aug. 28, 1876 (3 Copp's L. O. 82); June 13, 1876 (3 *id.* 50); Oct. 20, 1876 (6 *id.* 122).
- Expenditures:* Mt. Diablo Mg. Co. v. Callison, 5 Saw. C. C. 439. Decisions Sec. Int., Sept. 4, 1872 (Copp's Mg. Dec. 136); March 4, 1879 (6 Copp's L. O. 2). Decisions Com. G. L. O., March 11, 1875 (Skidmore, 47); Jan. 6, 1878 (5 Copp's L. O. 134); Aug. 20, 1879 (G. L. O. Rep. 1879, p. 144); Sept. 12, 1879 (*id.* 143); Oct. 20, 1879 (6 Copp's L. O. 122); May 1, 1880 (7 *id.* 20).
- Abandonment and Forfeiture:* Hibschle v. Gildersleeve, U. S. Dist. Ct. Colo. 1880, in manuscript; Mallett v. Uncle Sam Co., 1 Nev. 188; Oreamuns v. Uncle Sam Co., 1 *id.* 215; Weill v. Lucerne Co., 11 *id.* 200; King v. Edwards, 1 Montana, 235; Atkins v. Hendree, 1 Idaho, 107; Murley v. Ennis, 2 Colo. 300; Fairbanks v. Woodhouse, 6 Cal. 433; Davis v. Butler, 6 *id.* 510; Ferris v. Cooper, 10 *id.* 589; Waring v. Crow, 11 *id.* 366; Gluckauf v. Reed, 22 *id.* 468; Coleman v. Clements, 23 *id.* 245; Richardson v. McNulty, 24 *id.* 339; Wiseman v. McNulty, 25 *id.* 230; St. John v. Kidd, 26 *id.* 264; Depuy v. Williams, 26 *id.* 309; Wilson v. Cleveland, 30 *id.* 192; Bell v. Tunnel and Mg. Co., 36 *id.* 214; Judson v. Mulloy, 40 *id.* 300; Strang v. Ryan, 46 *id.* 33; Morenhaut v. Wilson, 52 *id.* 226; Myers v. Spooner, S. C. Cal. 1880, in manuscript.
- Relocations:* Decisions Sec. Int., Nov. 6, 1873 (Copp's Mg. Dec. 191); May 22, 1878 (5 Copp's L. O. 50); June 29, 1878 (5 *id.* 66). Decisions Com. G. L. O., Sept. 25, 1873 (Copp's Mg. Dec. 225); April 21, 1876 (3 Copp's L. O. 37); Dec. 13, 1878 (5 *id.* 162).
- Transfers:* Mining Co. v. Taylor, 10 Otto, 37. Kinney v. Con. Va. Mg. Co., 4 Saw. C. C. 382. Philippotts v. Blasdell, 8 Nev. 61; Weill v. Lucerne Co., 11 *id.* 200; Sullivan v. Hense, 2 Colo. 424; McCarron v. O'Connell, 7 Cal. 152; Clark v. McElroy, 11 *id.* 154; Jack-

son v. Feather River Co., 14 *id.* 18; Attwood v. Friet, 17 *id.* 38; Tunnel Co. v. Stranahan, 20 *id.* 198; Gatewood v. McLaughlin, 23 *id.* 178; Antonie Co. v. Ridge Co., 23 *id.* 219; Draper v. Douglas, 23 *id.* 347; Patterson v. Keystone Co., 23 *id.* 575; Richardson v. McNulty, 24 *id.* 339; Cary v. Campbell, 24 *id.* 634; Copper Hill Mg. Co. v. Spencer, 25 *id.* 18; St. John v. Kidd, 26 *id.* 264; Duryea v. Burt, 28 *id.* 569; Hess v. Winder, 30 *id.* 349; Patterson v. Keystone Mg. Co., 30 *id.* 360; Goller v. Fett, 30 *id.* 481; Settembre v. Putnam, 30 *id.* 490; King v. Randlett, 33 *id.* 318; Hardenburgh v. Bacon, 33 *id.* 356; Blodgett v. Potosi Mg. Co., 34 *id.* 227; Felger v. Coward, 35 *id.* 650; Meyers v. Farquharson, 46 *id.* 190. Decision Com. G. L. O., June 9, 1873 (Copp's Mg. Dec. 202).
Co-owners: The 420 Mg. Co. v. The Bullion Co., 3 Saw. C. C. 634. Mallett v. Uncle Sam Co., 1 Nev. 188; Chase v. Savage Co., 2 *id.* 9; Bucher v. Mulverhill, 1 Montana, 306; Murley v. Enais, 2 Colo. 300; Waring v. Crow, 11 Cal. 366; Gore v. McBrayer, 18 *id.* 582; Rowe v. Bacigalluppi, 21 *id.* 633; Coleman v. Clements, 23 *id.* 245; Hughes v. Devlin, 23 *id.* 501; Wiseman v. McNulty, 25 *id.* 230; Morton v. Solambo Co., 26 *id.* 527; Duryea v. Burt, 28 *id.* 569; Goller v. Fett, 30 *id.* 481; Settembre v. Putnam, 30 *id.* 490; Jones v. Clark, 42 *id.* 180; Taylor v. Castle, 42 *id.* 367; Decker v. Howell, 42 *id.* 636; Strang v. Ryan, 46 *id.* 33. Decisions Com. G. L. O., July 19, 1876 (3 Copp's L. O. 66); June 9, 1877 (4 *id.* 50); Dec. 21, 1877 (5 *id.* 4).

Patents for mineral lands, how obtained.

SEC. 393. A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field-notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been

posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter. Where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established, and this provision shall apply to all applications for patents to mineral lands pending on the twenty-second day of January, eighteen hundred and eighty.

Authority for
agents to make
applications and
affidavits.

17 Stat. 92; 19 *id.* 52; 21 *id.* 61; R. S. 2325.

Applications: Decisions Sec. Int., Nov. 6, 1873 (Copp's Mg. Dec. 191); March 22, 1875 (2 Copp's L. O. 5); June 29, 1875 (G. L. O. Rep. 1876, p. 78); Jan. 3, 1877 (3 Copp's L. O. 196). Decisions Com. G. L. O., Sept. 21, 1872 (Copp's Mg. Dec. 145); Feb. 18, 1875 (*id.* 159); March 24, 1873 (*id.* 165); April 15, 1873 (*id.* 188); Jan. 22, 1873 (*id.* 157); Jan. 6, 1874 (*id.* 340); July 21, 1874 (1 Copp's L. O. 66); Aug. 18, 1874 (1 *id.* 83); Dec. 14, 1874 (1 *id.* 146); Jan. 2, 1875 (1 *id.* 178); Feb. 18, 1875 (Copp's Mg. Dec. 159); Aug. 17, 1875 (2 Copp's L. O. 82); Nov. 12, 1875 (2 *id.* 130); Dec. 20, 1875 (2 *id.* 146); April 29, 1876 (3 *id.* 18); April 20, 1877 (4 *id.* 35); Oct. 20, 1879 (6 *id.* 122).

Agents and Attorneys: Decision Sec. Int., March 2, 1880 (7 Copp's L. O. 20). Decisions Com. G. L. O., Aug. 20, 1873 (Copp's Mg. Dec. 222); Aug. 26, 1879 (6 Copp's L. O. 92); Sept. 19, 1879 (G. L. O. Rep. 1879, p. 143); Oct. 20, 1879 (6 Copp's L. O. 122).

Expenditures: Mt. Diablo Mg. Co. v. Callison, 5 Saw. C. C. 439. Weeks' Mg. Laws, 113, 115, 116, 118, 120, 121. Decisions Sec. Int., Sept. 6, 1878 (6 Copp's L. O. 100); June 23, 1879 (7 *id.* 5).

Notice: Wolfley v. Lebanon Co., 4 Colo. 112. Decisions Sec. Int., Dec. 5, 1871 (Copp's Mg. Dec. 70); Nov. 24, 1873 (*id.* 169); April 30, 1874 (1 Copp's L. O. 34); Jan. 2, 1875 (1 *id.* 178); April 1, 1875 (2 *id.* 2); Dec. 1, 1876 (3 *id.* 163). Decisions Com. G. L. O., June 19, 1871 (Copp's Mg. Dec. 45); June 18, 1873 (*id.* 200); Nov. 12, 1873 (*id.* 234); July 21, 1874 (1 Copp's L. O. 66); Nov. 12, 1875 (2 *id.* 130); March 7, 1876 (2 *id.* 180); April 21, 1876 (3 *id.* 18); Dec. 1, 1876 (3 *id.* 163); Jan. 4, 1877 (3 *id.* 196); Aug. 26, 1879 (6 *id.* 92); Oct. 29, 1879; April 30, 1880.

Payment: Decision Com. G. L. O., Jan. 30, 1873 (Copp's Mg. Dec. 157).

Protestants: Decisions Sec. Int., April 30, 1874 (1 Copp's L. O. 34); March 24, 1876 (4 *id.* 34); Feb. 17, 1877 (3 *id.* 194); March 10, 1877 (4 *id.* 3); July 21, 1879 (6 *id.* 73). Decisions Com. G. L. O., Aug. 17, 1874 (1 Copp's L. O. 82); Oct. 8, 1875 (2 *id.* 115).

Patents: Decisions Sec. Int., Jan. 14, 1873 (Copp's Mg. Dec. 152); Jan. 2, 1875 (1 Copp's L. O. 178); March 22, 1875 (2 *id.* 5); April 1, 1875 (2 *id.* 2); March 4, 1875 (2 *id.* 82); July 21, 1879 (6 *id.* 73). Decisions Com. G. L. O., Jan. 21, 1869 (Copp's Mg. Dec. 18); July 22, 1869 (*id.* 21); April 18, 1870 (*id.* 30); Jan. 2, 1872 (*id.* 72); Feb. 27, 1872 (*id.* 79); April 4, 1872 (*id.* 85); April 5, 1872 (*id.* 88); Oct. 2, 1872 (*id.* 146); March 8, 1873 (*id.* 102); July 26, 1873 (*id.* 213); Oct. 22, 1873 (*id.* 227); March 14, 1874 (1 Copp's L. O. 2); June 22, 1875 (2 *id.* 98); Oct. 26, 1875 (2 *id.* 114); Dec. 20, 1875 (2 *id.* 146); Feb. 25, 1876 (2 *id.* 178); Jan. 15, 1880 (6 *id.* 171).

Right of Purchase: The 420 Mg. Co. v. The Bullion Co., 3 Saw. C. C. 634; Chapman v. Toy Long, 4 *id.* 23. *Titecomb v. Kirk*, 51 Cal. 288.

Surveys: Decisions Sec. Int., May 22, 1878 (5 Copp's L. O. 50); Sept. 6, 1878 (5 *id.* 100); Aug. 2, 1880 (8 Wash. Law. Rep. 540); Aug. 16, 1880. Decisions Com. G. L. O., April 17, 1873 (Copp's Mg. Dec. 193); Sept. 11, 1873 (*id.* 223); Jan. 6, 1874 (*id.* 340); Nov. 5, 1874 (1 Copp's L. O. 133); April 24, 1876 (3 *id.* 18); Aug. 28, 1876 (3 *id.* 82); April 10, 1877 (5 *id.* 51); Nov. 30, 1877 (5 *id.* 18); Oct. 20, 1879 (6 *id.* 122); May 4, 1880 (7 *id.* 35); June 17, 1880 (7 *id.* 51); Aug. 9, 1880 (7 *id.* 82).

Adverse claim,
proceedings on.

SEC. 394. Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

17 Stat. 93; 19 *id.* 52; R. S. 2326. *The Eureka Case*, 4 Saw. C. C. 302. *Golden Fleece Co. v. The Cable Co.*, 12 Nev. 312; *Sears v. Taylor*, 4 Colo. 38. Decisions Sec. Int., March 11, 1872 (G. L. O. Rep. 1873, p. 43); May 27, 1872 (G. L. O. Rep. 1873, p. 19); Feb. 24, 1873 (Copp's Mg. Dec. 101); Oct. 28, 1873 (*id.* 161); Aug. 9, 1874 (2 Copp's L. O. 98); Sept. 9, 1874 (1 *id.* 98); Jan. 2, 1875 (1 *id.* 178); March 22, 1875 (2 *id.* 5); Feb. 12, 1876 (2 *id.* 178); Dec. 26, 1876 (3 *id.* 162); Feb. 17, 1877 (3 *id.* 195); Feb. 17, 1877 (G. L. O. Rep. 1877, p. 129); April 17, 1877 (4 Copp's L. O. 34); Jan. 3, 1877

(3 *id.* 196); July 14, 1877 (4 *id.* 66); Sept. 27, 1877 (G. L. O. Rep. 1877, p. 135); May 21, 1879 (6 Copp's L. O. 73); June 25, 1879 (G. L. O. Rep. 1879, p. 149); July 17, 1879 (*id.* 145). Decisions Com. G. L. O., Dec. 29, 1871 (Copp's Mg. Dec. 76); Jan. 14, 1873 (*id.* 156); June 9, 1873 (*id.* 202); Nov. 24, 1873 (*id.* 145); July 21, 1874 (1 Copp's L. O. 66); Oct. 24, 1874 (1 *id.* 132); Dec. 14, 1874 (1 *id.* 146); May 12, 1876 (3 *id.* 36); Dec. 19, 1878 (5 *id.* 162); Sept. 12, 1879 (6 *id.* 105); Sept. 19, 1879 (6 *id.* 105); Feb. 28, 1880 (7 *id.* 50); April 15, 1880 (7 *id.* 51); June 28, 1880 (7 *id.* 50); July 15, 1880 (8 Wash. Law Rep. 461).

SEC. 395. The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

17 Stat. 94; 19 *id.* 52; R. S. 2327.

SEC. 396. Applications for patents for mining claims under former laws now pending may be prosecuted to a final decision in the General Land Office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this chapter; and all patents for mining claims upon veins or lodes heretofore issued shall convey all the rights and privileges conferred by this chapter where no adverse rights existed on the tenth day of May, eighteen hundred and seventy-two.

17 Stat. 94; 19 *id.* 52; R. S. 2328.

SEC. 397. Claims usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.

16 Stat. 217; R. S. 2329. *Chapman v. Toy Long*, 4 Saw. C. C. 28. *Moxon v. Wilkinson*, 2 Montana, 421. Decisions Sec. Int., March 4, 1879 (6 Copp's L. O. 4). Decisions Com. G. L. O., Feb. 12, 1872 (Copp's Mg. Dec. 78); April 18, 1873, (*id.* 194); April 25, 1874 (1 Copp's L. O. 18).

SEC. 398. Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona-fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona-fide settler to any purchaser.

16 Stat. 217; R. S. 2330. *Campbell v. Adams*, U. S. Dist. Ct. Colo.

1880, in manuscript. Decisions Com. G. L. O., March 1, 1871 (Copp's Mg. Dec. 40); Jan. 20, 1873 (*id.* 157); July 10, 1873 (*id.* 211); Oct. 23, 1873 (*id.* 229); Nov. 20, 1873 (*id.* 235); Nov. 21, 1874 (1 Copp's L. O. 134); Sept. 20, 1879 (G. L. O. Rep. 1879, p. 143).

Conformity of
placer claims to
surveys; limita-
tion of claims.

SEC. 399. Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

17 Stat. 94; 19 *id.* 52; R. S. 2331. Campbell v. Adams, U. S. Dist. Ct. Colo. 1880, in manuscript. Decisions Com. G. L. O., May 19, 1873 (Copp's Mg. Dec. 200); Aug. 27, 1873 (*id.* 222).

What evidence
of possession,
&c., to establish
a right to a pat-
ent.

SEC. 400. Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

16 Stat. 217; R. S. 2332. The 420 Mg. Co. v. The Bullion Co., 3 Sav. C. C. 634. Davis v. Clark, 2 Montana, 310; Maine Boys Co. v. Boston Co., 37 Cal. 40.

Proceedings for
patent for placer
claim, &c.

SEC. 401. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section three hundred and eighty-eight, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim, which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a

placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

17 Stat. 94; 19 *id.* 52; R. S. 2333. Decision Com. G. L. O., Oct. 17, 1873 (Copp's Mg. Dec. 226).

SEC. 402. The surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land Office.

17 Stat. 95; 19 *id.* 52; R. S. 2334. Decision Com. G. L. O., Aug. 6, 1872 (Copp's Mg. Dec. 131).

SEC. 403. All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

17 Stat. 95; 19 *id.* 52; R. S. 2335. Decisions Com. G. L. O., July 21, 1874 (1 Copp's L. O. 66); Jan. 27, 1876 (2 *id.* 162).

SEC. 404. Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the

Surveyor-general to appoint surveyors of mining claims, &c.

Verification of affidavits, &c.

Where veins intersect, &c.

purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

17 Stat. 96; 19 *id.* 52; R. S. 2336. Decisions Sec. Int., Feb. 24, 1873 (Copp's Mg. Dec. 96, 101); July 21, 1879 (6 Copp's L. O. 73). Decision Com. G. L. O., Feb. 25, 1876 (2 Copp's L. O. 178).

Patents for non-mineral lands, &c.

SEC. 405. Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

17 Stat. 96; 19 *id.* 52; R. S. 2337. Decision Sec. Int., April 29, 1876 (3 Copp's L. O. 67). Decisions Com. G. L. O., Oct. 11, 1872 (Copp's Mg. Dec. 147); April 16, 1873 (*id.* 193); May 20, 1873 (*id.* 201); March 10, 1874 (1 Copp's L. O. 1); Oct. 21, 1875 (2 *id.* 114); Sept. 24, 1879.

What conditions of sale may be made by local legislature.

SEC. 406. As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

14 Stat. 252; 19 *id.* 52; R. S. 2338.

Vested rights to use of water for mining, &c.; right of way for canals.

SEC. 407. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

14 Stat. 253; R. S. 2339. *Atchison v. Peterson*, 20 Wall. 507; *Basey v. Gallagher*, 20 *id.* 670; *Jennison v. Kirk*, 8 Otto, 453. Decisions Com. G. L. O., Nov. 23, 1869 (Copp's Mg. Dec. 24); April 16, 1871 (*id.* 42); March 21, 1872 (*id.* 82).

Patents, pre-emption, and homesteads subject to vested and accrued water-rights.

SEC. 408. All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under or recognized by the preceding section.

16 Stat. 218; R. S. 2340.

SEC. 409. Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or they may avail themselves of the provisions of chapter eight, relating to "Homesteads."

Mineral lands in which no valuable mines are discovered open to homesteads.

14 Stat. 253; R. S. 2341. *Ah Yew v. Choate*, 24 Cal. 562; *Alford v. Barnum*, 45 *id.* 482. Decisions Sec. Int., Feb. 12, 1872 (Copp's Mg. Dec. 77); May 6, 1872 (*id.* 93); July 10, 1872 (*id.* 128, 130); Dec. 14, 1872 (*id.* 133); Jan. 3, 1876 (2 Copp's L. O. 146); Feb. 5, 1876 (2 *id.* 180; 3 *id.* 2); Dec. 20, 1876 (4 *id.* 102); April 5, 1877 (4 *id.* 19); June 21, 1877 (5 *id.* 3); Feb. 16, 1878 (5 *id.* 3); March 4, 1879 (6 *id.* 4); Dec. 22, 1879 (7 *id.* 23); April 7, 1880 (7 *id.* 36). Decisions Com. G. L. O., Nov. 14, 1872 (Copp's Mg. Dec. 148); Oct. 21, 1871 (*id.* 60); Dec. 2, 1872 (*id.* 150); March 12, 1873 (*id.* 163); July 10, 1873 (*id.* 208); Nov. 11, 1873 (*id.* 233); Aug. 4, 1875 (2 Copp's L. O. 84); Feb. 18, 1875 (1 *id.* 180); June 21, 1876 (3 *id.* 50); Oct. 24, 1876 (3 *id.* 130); March 21, 1877 (4 *id.* 2); March 26, 1877 (4 *id.* 17); Nov. 6, 1879 (6 *id.* 135). Cir. G. L. O., April 22, 1880 (7 Copp's L. O. 36).

SEC. 410. Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

Mineral lands, how set apart as agricultural lands.

14 Stat. 253; R. S. 2342. *Ah Yew v. Choate*, 24 Cal. 562; *Alford v. Barnum*, 45 *id.* 482. Decisions Sec. Int., Feb. 12, 1872 (Copp's Mg. Dec. 77); May 6, 1872 (*id.* 93); July 10, 1872 (*id.* 128, 130); Dec. 14, 1872 (*id.* 133); Jan. 3, 1876 (2 Copp's L. O. 146); Feb. 5, 1876 (2 *id.* 180; 3 *id.* 2); Dec. 20, 1876 (4 *id.* 102); April 5, 1877 (4 *id.* 19); June 21, 1877 (5 *id.* 2); Feb. 16, 1878 (5 *id.* 3); March 4, 1879 (6 *id.* 4); Dec. 22, 1879 (7 *id.* 23); April 17, 1880 (7 *id.* 36). Decisions Com. G. L. O., Nov. 14, 1872 (Copp's Mg. Dec. 148); Oct. 21, 1871 (*id.* 60); Dec. 2, 1872 (*id.* 150); March 12, 1873 (*id.* 163); July 10, 1873 (*id.* 208); Nov. 11, 1873 (*id.* 233); Aug. 4, 1875 (2 Copp's L. O. 84); Feb. 18, 1875 (1 *id.* 180); June 21, 1876 (3 *id.* 50); Oct. 24, 1876 (3 *id.* 130); March 21, 1877 (4 *id.* 2); March 26, 1877 (4 *id.* 17); Nov. 6, 1879 (6 *id.* 135). Cir. G. L. O., April 22, 1880 (7 Copp's L. O. 36.)

SEC. 411. The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

Additional land districts and officers, power of the President to provide.

14 Stat. 252; R. S. 2343.

SEC. 412. Nothing contained in this chapter shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws; nor to affect the provisions of the act entitled "An act granting to A. Sutro the right of way and other privileges to aid in the construc-

Provisions of this chapter not to affect certain rights.

tion of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-five, eighteen hundred and sixty-six.

16 Stat. 218; 17 *id.* 96; 19 *id.* 52; R. S. 2344. Decision Sec. Int., Aug. 30, 1878 (5 Copp's L. O. 198). Decisions Com. G. L. O., March 8, 1873 (Copp's Mg. Dec. 162); March 29, 1873 (*id.* 179); May 27, 1876 (3 Copp's L. O. 34).

Mineral lands
in certain States
excepted

SEC. 413. The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the tenth day of May, eighteen hundred and seventy-two. And any bona-fide entries of such lands within the States named since the tenth day of May, eighteen hundred and seventy-two, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of pre-emption as other public lands.

17 Stat. 465; R. S. 2345. Decision Com. G. L. O., July 21, 1876 (3 Copp's L. O. 132).

Deposits of coal,
iron, and lead in
Missouri and
Kansas excepted.

SEC. 414. Within the State of Missouri and Kansas deposits of coal, iron, lead, or other mineral are excluded from the operation of the preceding sections of this chapter, and all lands in said States shall be subject to disposal as agricultural lands.

19 Stat. 52.

Grants of lands
to States or cor-
porations not to
include mineral
lands.

SEC. 415. No act passed at the first session of the Thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants made prior to the thirtieth day of January, eighteen hundred and sixty-five, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant; and all mineral lands are excepted from the operation and grants of laws heretofore granting lands to the State of Colorado.

13 Stat. 576; 18 *id.* 476; R. S. 2346. *Heydenfeldt v. Mg. Co.*, 3 Otto, 634. *Boggs v. Merced Mg. Co.*, 14 Cal. 279; *Burdge v. Smith*, 14 *id.* 380; *Doran v. Railway Co.*, 24 *id.* 452; *Higgins v. Houghton*, 25 *id.* 252; *McLaughlin v. Powell*, 50 *id.* 64. Decisions Sec. Int., May 20, 1870 (Copp's Mg. Dec. 31); April 23, 1873; April 30, 1879. Decisions Com. G. L. O., Feb. 5, 1879 (5 Copp's L. O. 178); Dec. 19, 1879 (6 *id.* 152).

Entry of coal
lands.

SEC. 416. Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such; or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the

same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

17 Stat. 607; R. S. 2347. *Stroud v. Railway Co.*, 4 Dillon, C. C. 396. Decisions Com. G. L. O., Aug. 11, 1873 (1 Copp's L. O. 2); March 28, 1874 (1 *id.* 3); May 25, 1874 (3 *id.* 34); Nov. 3, 1874 (3 *id.* 135).

SEC. 417. Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the preceding section, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

17 Stat. 607; R. S. 2348.

SEC. 418. All claims under the preceding section must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three.

17 Stat. 607; R. S. 2349. Decision Com. G. L. O., Aug. 11, 1873 (1 Copp's L. O. 3).

SEC. 419. The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section four hundred and seventeen shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

17 Stat. 607; R. S. 2350.

Conflicting
claims.

SEC. 420. In case of conflicting claims upon coal lands where the improvements shall be commenced, after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Commissioner of the General Land Office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

17 Stat. 607; R. S. 2351.

Rights reserved.

SEC. 421. Nothing in the five preceding sections shall be construed to destroy or impair any rights which may have attached prior to the third day of March, eighteen hundred and seventy-three, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

17 Stat. 607; R. S. 2352.

CHAPTER FOURTEEN.

WATER RIGHTS.

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| <p>Sec.
 422. Vested rights to use water for mining, &c.; right of way for canals.
 423. Patents, pre-emptions, and homesteads, subject to vested and accrued water rights.</p> | <p>Sec.
 424. Conditions for use of water on public lands for reclamation.
 425. Navigable rivers within public lands to be public highways.</p> |
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SEC. 422. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Vested rights to use of water for mining, &c.; right of way for canals.

14 Stat. 253; R. S. 2339. *Atchison v. Peterson*, 20 Wall. 507; *Basey v. Gallagher*, 20 *id.* 670; *Jennison v. Kirk*, 8 Otto, 453; *Broder v. Water and Mining Co.*, S. C., Oct. T. 1879, in manuscript. *Union Mill and Mining Co. v. Ferris*, 2 Saw. C. C. 176. *Lobdell v. Simpson*, 2 Nov. 274; *Lobdell v. Hall*, 3 *id.* 507; *Mining Co. v. Carpenter*, 4 *id.* 534; *Robinson v. Imperial Silver &c.*, 5 *id.* 44; *Covington v. Becker*, 5 *id.* 281; *Hobart v. Ford*, 6 *id.* 77; *Proctor v. Jennings*, 6 *id.* 83; *Vansickle v. Haines*, 7 *id.* 249; *Dalton v. Bowker*, 8 *id.* 201; *Barnes v. Sabron*, 10 *id.* 217; *Shoemaker v. Hatch*, 13 *id.* 261; *Rivers v. Burbank*, 13 *id.* 398; *Caruthers v. Pemberton*, 1 Montana, 111; *Wilson v. O'Neil*, 1 *id.* 284; *Mining Co. v. Halter*, 1 *id.* 296; *Noteware v. Sterns*, 1 *id.* 311; *Parks v. Barkley*, 1 *id.* 514; *Woolman v. Garringer*, 1 *id.* 535; *Atchison v. Peterson*, 1 *id.* 561; *Barkley v. Fileke*, 2 *id.* 59; *Fabian v. Collins*, 2 *id.* 510; *Schilling v. Rominger*, 4 Colo. 100; *Eddy v. Simpson*, 3 Cal. 249; *Irwin v. Phillips*, 5 *id.* 140; *Hill v. Newman*, 5 *id.* 445; *Kelly v. Water Co.*, 6 *id.* 105; *Hoffman v. Stone*, 7 *id.* 47; *Sims v. Smith*, 7 *id.* 149; *Maeris v. Bricknell*, 7 *id.* 262; *Tenney v. Miners' Ditch Co.*, 7 *id.* 335; *Coker v. Simpson*, 7 *id.* 341; *Park v. Kilham*, 8 *id.* 78; *Crandall v. Woods*, 8 *id.* 136; *Thompson v. Lee*, 8 *id.* 275; *Leigh Co. v. Independent Ditch Co.*, 8 *id.* 323; *Bear River &c. Co. v. N. Y. Mining Co.*, 8 *id.* 327; *Hill v. King*, 8 *id.* 337; *White v. Todd*, 8 *id.* 443; *O'Reiffer v. Cunningham*, 9 *id.* 589; *Weaver v. Conger*, 10 *id.* 233; *Wolf v. St. Louis Ind. Water Co.*, 10 *id.* 413; *Hoffman v. Tuol*, 10 *id.* 417; *Weimer v. Lowrey*, 11 *id.* 104; *Butte Canal Co. v. Vaughn*, 11 *id.* 143; *Kimball v. Gearhart*, 12 *id.* 27; *McGarrity v. Byington*, 12 *id.* 426; *Ortman v. Dixon*, 13 *id.* 33; *McDonald v. Bear River, &c.*, 13 *id.* 220; *Burnett v. Whitesides*, 15 *id.* 35; *Clark v. Duvall*, 15 *id.* 85; *Edmond v. Chew*, 15 *id.* 137; *McDonald v. Bear River &c.*, 15 *id.* 145; *Kidd v. Laird*, 15 *id.* 161; *Weaver v. Eureka Lake Co.*, 15 *id.* 271; *Butte T. M. Co. v. Morgan*, 19 *id.* 609; *McKinney v. Smith*, 21 *id.* 374; *Coleman v. Clements*, 23 *id.* 245; *Rupley v. Welch*, 23 *id.* 452; *Everett v. Hydraulic Co.*, 23 *id.* 225; *Phoenix Water Co. v. Fletcher*, 23 *id.* 481; *Netoma Water and Mining Co. v. McCoy*, 23 *id.* 490; *Bear River &c. v. Boles*, 24 *id.* 359; *Wixon v. Bear River Co.*, 24 *id.* 367; *Crary v. Campbell*, 24 *id.* 634; *Wiseman v. McNulty*, 25 *id.* 230;

Union Water Co. v. Crary, 25 *id.* 504; St. John v. Kidd, 26 *id.* 264; Bradley v. Harkness, 26 *id.* 69; American v. Bradford, 27 *id.* 360; Hill v. Smith, 27 *id.* 476; Ferrea v. Knipe, 28 *id.* 340; McDonald v. Askew, 29 *id.* 200; Henderson v. McNaughton, 31 *id.* 26; Davis v. Gale, 32 *id.* 26; Gibson v. Puchta, 33 *id.* 310; Richardson v. Kier, 34 *id.* 63; Nevada Water Co. v. Powell, 34 *id.* 109; Clark v. Willett, 35 *id.* 535; Campbell v. B. R. and W. M. Co., 35 *id.* 679; Richardson v. Kier, 37 *id.* 267; Gregor v. Nelson, 41 *id.* 279; Hanson v. McCune, 42 *id.* 303; Correa v. Frietas, 42 *id.* 339; Smith v. O'Mara, 43 *id.* 371; Stone v. Bumpus, 46 *id.* 218; Ogburn v. Connor, 46 *id.* 347; Quirk v. Tralk, 47 *id.* 453; Broder v. N. W. and M. Co., 50 *id.* 621; Reynolds v. Hosmer, 51 *id.* 206; Titcomb v. Kirk, 51 *id.* 288; Cave v. Crafts, 53 *id.* 135. Decisions Com. G. L. O., Nov. 23, 1869 (Copp's Mg. Dec. 24); April 16, 1871 (*id.* 42); March 21, 1872 (*id.* 82).

Patents, pre-
emptions, and
homesteads sub-
ject to vested and
accrued water
rights.

SEC. 423. All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under or recognized by the preceding section.

16 Stat. 218; R. S. 2340. Union Mill and Mg. Co. v. Ferris, 2 Saw. C. C. 176; Union Mill and Mining Co., v. Dangberg, 2 *id.* 451. Vansickle v. Harris, 7 Nev. 249; Barnes v. Sabron, 10 *id.* 217; Thorp v. Freed, 1 Montana, 652; Ogburn v. Connor, 46 Cal. 347; Broder v. N. W. and M. Co., 50 *id.* 621. Decisions Com. G. L. O., April 16, 1871 (Copp's Mg. Dec. 42); March 21, 1872 (*id.* 82).

Conditions for
use of water on
public lands for
reclamation.

SEC. 424. The right to the use of water for the reclamation of desert lands, in accordance with the provisions of an act approved March third, eighteen hundred and seventy-seven, shall depend upon bona fide prior appropriation: and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation: and all surplus water over and above such actual appropriation and use, together with the water of lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing rights.

19 Stat. 377.

Navigable riv-
ers within public
lands to be public
highways.

SEC. 425. All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and, in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

1 Stat. 468; 2 *id.* 235; R. S. 2476. New Orleans v. U. S., 10 Pet. 662; Pollard v. Hagen, 3 How. 212; Pollard v. Kibble, 9 *id.* 471; Hullett v. Beebe, 13 *id.* 25; Withers v. Buckley, 20 *id.* 84; Railway Co. v. Schurmeir, 7 Wall. 272; Yates v. Milwaukee, 10 *id.* 497; The Daniel Ball, 10 *id.* 557; The Montello, 11 *id.* 411, 20 *id.* 430; Barney v. Keokuk, 4 Otto, 324. Woodman v. Kilburn, 1 Abbott, C. C. 158; Avery v. Fox, 1 *id.* 246; Northern Union Packet Co. v. Atles, 2 Dillon, C. C. 479; Forsyth v. Small, 7 Bissell, C. C. 201; Grange v. Snart, 1 Woolw. C. C. 88. Vansickle v. Harris, 7 Nev. 249; Leake v. Tolls, 8 *id.* 286; Gavit v. Chambers, 3 Ohio, 496; Blanchard v. Porter, 11 *id.* 133; Walker v. Board of Public Works, 16 *id.* 540; Gilman v. Riassell, 18 Mich. 144; Watson v. Peters, 26 *id.* 508; Treat v. Bates, 27 *id.* 390; Bay City Gas Light Co. v. Industrial Works, 28 *id.* 181; Att'y-Gen. v. Evans Booming Co., 34 *id.* 462; Jones v. Pettibone, 2 Wis. 308; Walker v. Stephenson, 4 *id.* 486; Mariner v. Schulte, 13 *id.* 692; Timm v. Bear, 29 *id.* 254; Wright v. Day, 33 *id.* 260; Oleson v. Merrill, 42 *id.* 203; Delaplane v. Railway Co., 42 *id.* 214; Borman v. Sun-

nuches, 42 *id.* 233; Diedrich v. Railway Co., 42 *id.* 248; Stevens Point Boom Co. v. Reilly, 44 *id.* 295; same case, 46 *id.* 237; Hazeltine v. Core, 46 *id.* 391; Rippe v. Railway Co., 23 Minn. 18; Bresbine v. Railway Co., 23 *id.* 114; McManus v. Carmichael, 3 Iowa, 1; Haight v. Keokuk, 4 *id.* 405; Tomlin v. Railway Co., 32 *id.* 106; Masser v. Hershey, 42 *id.* 356; Houghton v. Railway Co., 47 *id.* 370; Bainbridge v. Sherlock, 29 Ind. 364; Martin v. Evansville, 32 *id.* 85; Sherlock v. Bainbridge, 41 *id.* 35; Ridgeway v. Ludlow, 58 *id.* 248; Taylor v. Fiekas, 64 *id.* 168; Middleton v. Pritchard, 4 Ills. 510; People v. St. Louis, 10 *id.* 351; Trustees v. Haven, 10 *id.* 548; Stolp v. Hoyt, 44 *id.* 219; Chicago v. Laffin, 49 *id.* 172; Chicago v. McGinn, 50 *id.* 266; Hubbard v. Bell, 54 *id.* 110; Lovington v. County of St. Claire, 61 *id.* 56; Braxton v. Bressler, 64 *id.* 488; Houck v. Yates, 82 *id.* 179; Lamers v. Nissen, 4 Neb. 245; Weise v. Smith, 3 Oreg. 445; Brown v. Kentfield, 50 Cal. 129; O'Fallen v. Doggett, 4 Mo. 209; Benson v. Morrow, 61 *id.* 345; Duvoige v. Salter, 6 La. Ann. 450; Boykin v. Shaffer, 13 *id.* 129. Decision Com. G. L. O. Feb. 20, 1874 (Copp's L. L. 763). Manual of Surveying Instructions (1 Lester's L. L. 714).

CHAPTER FIFTEEN.

DONATIONS.

For all laws granting donation rights to citizens of the several States, see "Local and Temporary Laws," under the caption of each State. Laws granting donation rights

11 L O

CHAPTER SIXTEEN.

DESERT LANDS.

<p>Sec. 426. Desert lands may be purchased. Declaration. Right to use water. Water on public lands to be free. Contents of declaration. Perfection of title. Limitation upon quantity.</p>	<p>Sec. 427. Definition of desert lands. 428. Localities to which the law applies.</p>
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Desert lands may be purchased. SEC. 426. It shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of twenty-five cents per acre—to file a declaration under oath with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter, *Provided* *however* That the right to the use of water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres shall depend upon bona-fide prior appropriation: and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation: and all surplus water over and above such actual appropriation and use, together with the water of all, lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him. *Provided*, That no person shall be permitted to enter more than one tract of land and not to exceed six hundred and forty acres which shall be in compact form.

Declaration.

Right to use water.

Water on public lands to be free.

Contents of declaration.

Perfection of title.

Limitation upon quantity.

18 Stat. 497; 19 *id.* 377. Decisions Sec. Int., Feb. 11, 1880 (7 Copp's L. O. 8); April 15, 1880 (7 *id.* 26). Decisions Com. G. L. O., April 8, 1875 (2 Copp's L. O. 44); — (6 *id.* 192); March 30, 1880 (7 *id.* 26). Cir. G. L. O., March 12, 1877 (4 Copp's L. O. 22); June 25, 1878 (5 *id.* 78); Oct. 1, 1878; July 16, 1879 (6 Copp's L. O. 76). General Cir., Sept. 1, 1879, p. 27. (For authorities relating to water-rights see sec. 422).

SEC. 427. All lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

Definition of
desert lands.

18 Stat. 497; 19 *id.* 377.

SEC. 428. This chapter shall only apply to and take effect in the States of California, Oregon and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Localities to
which the law ap-
plies.

18 Stat. 497; 19 *id.* 377.

CHAPTER SEVENTEEN.

REPAYMENTS OF PURCHASE MONEY.

Sec.

429. Purchase money refunded where sale cannot be confirmed.
 430. Refunding in certain cases, how done.
 431. Repayments on void soldiers' additional homestead locations.

Sec.

432. Purchase money, fees, and commissions on erroneous entries, or where sales cannot be confirmed.
 433. Regulations for repayments. Warrants on Treasury for same.

Purchase money refunded where sale cannot be confirmed.

SEC. 429. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

4 Stat. 80; 11 *id.* 357; R. S. 2362. 2 Op. Att. Gen. 155; 3 *id.* 92, 240; 4 *id.* 277. Decisions Sec. Int., Aug. 17, 1849; Feb. 26, 1852 (1 *Lester's L. L.* 673); March 8, 1852 (1 *id.* 671); July 21, 1852 (1 *id.* 672); Dec. 19, 1853 (1 *id.* 673); Nov. 21, 1857 (1 *id.* 675); Jan. 18, 1859 (1 *id.* 676); March 25, 1859 (1 *id.* 677); June 25, 1859 (1 *id.* 677); Aug. 9, 1859 (1 *id.* 675); July 23, 1861; Dec. 27, 1870; Dec. 19, 1873; March 3, 1874; Feb. 8, 1878; April 15, 1878; June 3, 1878; Aug. 5, 1878; Aug. 12, 1878; Aug. 15, 1878 (5 *Copp's L. O.* 127); Sept. 5, 1878; Sept. 23, 1878; Nov. 20, 1878; May 7, 1879; May 25, 1879; June 26, 1879 (6 *Copp's L. O.* 93); July 1, 1879 (6 *id.* 96); July 29, 1879 (6 *id.* 95); Jan. 8, 1880 (6 *id.* 192); Feb. 11, 1880 (7 *id.* 8). Decisions Sec. Treas., March 11, 1831 (2 *Laws, Instructions, and Opinions*, 440); April 17, 1832 (2 *id.* 460); April 20, 1877 (4 *Copp's L. O.* 110). Decisions Com. G. L. O., Aug. 31, 1830 (2 *Laws, Instructions, and Opinions*, 432); Dec. 20, 1858 (1 *Lester's L. L.* 675); July 18, 1871; Sept. 20, 1872; April 12, 1875; Jan. 27, 1876 (2 *Copp's L. O.* 130); June 7, 1879; Sept. 12, 1879. Cir. G. L. O., Aug. 31, 1830 (1 *Lester's L. L.* 667); Sept. 12, 1843 (1 *id.* 669); Jan. 12, 1854 (1 *id.* 670); Aug. 7, 1878 (5 *Copp's L. O.* 110); June 27, 1879; Aug. 6, 1880 (7 *Copp's L. O.* 99).

Refunding in certain cases, how done.

SEC. 430. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust fund, to repay the purchase money to the parties entitled thereto.

11 Stat. 385; R. S. 2363.

Repayments on void soldiers' additional homestead locations.

SEC. 431. In all cases where it shall be made to appear to the satisfaction of the Secretary of the Interior, upon due proof, that innocent parties have paid the fees and commissions and excess payments required upon the location of soldiers' additional homestead claims, located under section two hundred and thirty-seven, which claims were found to be fraudulent and void after location and the entries or locations made thereon canceled, the Secretary of the Inte-

rior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

21 Stat. 257. Cir. G. L. O., Aug. 6, 1880 (7 Copp's L. O. 90).

SEC. 432. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid, out of any money in the Treasury not otherwise appropriated, to the person who made such entry, his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office; and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns.

21 Stat. 257. Cir. G. L. O., Aug. 6, 1880 (7 Copp's L. O. 90).

SEC. 433. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry into effect the foregoing sections relating to repayments, and the Secretary of the Interior shall draw his warrant on the Treasury for the repayment of all purchase money, fees, commissions and excesses, and the same shall be paid without regard to the date of the cancellation of the entries.

21 Stat. 257. Cir. G. L. O., Aug. 6, 1880 (7 Copp's L. O. 90).

Purchase money, fees, and commissions on erroneous entries or where sales cannot be confirmed.

Regulations for repayments; warrants on Treasury for same.

CHAPTER EIGHTEEN

RESERVATIONS.

Sec.	Sec.
434. Reservations in Florida, how sold.	437. Reservations, how surveyed.
435. Sale of military sites under general laws prohibited; proviso as to Florida.	438. Sale of buildings belonging to United States.
436. Minimum price, how fixed, when reservations are sold.	439. Sale of lands with buildings.

Reservations in Florida, how sold. SEC. 434. All public lands heretofore reserved for military purposes in the State of Florida, which, in the opinion of the Secretary of War, are no longer useful or desired for such purposes, or so much thereof as said Secretary may designate, shall be placed under the control of the General Land Office, and be disposed of and sold in the same manner and under the same regulations as other public lands of the United States: *Provided*, That said lands shall not be so placed under the control of the General Land Office until the opinion of the Secretary of War, giving his consent, is communicated to the Secretary of the Interior in writing and filed and recorded.

11 Stat. 87.

Sale of military sites under general laws prohibited. SEC. 435. Military sites which are or may become useless for military purposes shall not be subject to sale or pre-emption under any of the laws of the United States: *Provided*, That this section shall not apply to military sites in the State of Florida, the sale of which is authorized by the preceding section.

Proviso as to Florida.

11 Stat. 336.

Minimum price, how fixed, when reservations sold. SEC. 436. Whenever any reservation of public lands is brought into market, the Commissioner of the General Land Office shall fix a minimum price, not less than one dollar and twenty-five cents per acre, below which such lands shall not be disposed of.

13 Stat. 374; R. S. 2364.

Reservations how surveyed.

SEC. 437. Whenever it becomes necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the General Land Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.

13 Stat. 41; R. S. 2115.

Sale of buildings belonging to the United States.

SEC. 438. The Secretary of the Interior is authorized to cause all such buildings belonging to the United States, as have been, or hereafter shall be, erected for the use of their agents, teachers, farmers, mechanics, and other persons employed amongst the Indians, to be sold whenever the lands

on which the same are erected have become the property of the United States, and are no longer necessary for such purposes.

5 Stat. 611; R. S. 2122.

SEC. 439. The Secretary of the Interior is authorized to cause to be sold, at his discretion, with each of such buildings as are mentioned in the preceding section, a quantity of land not exceeding one section; and on the payment of the consideration agreed for into the Treasury of the United States by the purchaser, the Secretary shall make, execute, and deliver to the purchaser a title in fee-simple for such lands and tenements. Sale of lands with buildings.

5 Stat. 611; R. S. 2123.

NOTE.—For laws reserving timber lands for naval purposes, see *Timber and Timber Culture*, chapter ix.

For acts reserving lands for public parks and for other purposes, see “Local and Temporary Laws” relating to the States and Territories in which such reservations are located.

For authority of President to make reservations for public purposes, see *Wilcox v. Jackson*, 13 Pet. 498; *U. S. v. Fitzgerald*, 15 *id.* 407; *U. S. v. Chicago*, 7 How. 185; *U. S. v. Stone*, 2 Wall. 525; *Wolcott v. Des Moines Co.*, 5 *id.* 681; *Grisar v. McDowell*, 6 *id.* 363.

CHAPTER NINETEEN.

EASEMENTS.

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| <p>Sec.
 440. Navigable rivers public highways. Streams not navigable, banks of.
 441. Right of way for highways over public lands.
 442. If lands granted for right of way are not used, &c., to revert to the Government.
 443. Mineral locators' rights of possession and enjoyment.
 444. Right of way in intersecting veins in mines.
 445. What conditions of sale may be made by local legislature.
 446. Vested rights to use of water for mining, &c.; right of way for canals.
 447. Patents, pre-emptions, and homesteads subject to vested and accrued water-rights.
 448. Right of way, materials, station-grounds, &c., granted to railroads.
 449. Rights of several railroads through cañon, pass, or defile. Crossing at grade. Wagon roads, rights of.</p> | <p>Sec.
 450. Private lands and possessory claims, how condemned.
 451. Profile of road claiming benefits, when to be filed. Disposal of lands subject to right of way. Forfeiture of right.
 452. Application of this act.
 453. Right to alter, amend, &c.
 454. Use of public domain by telegraph company.
 455. Use of materials from public lands.
 456. These rights not transferable.
 457. Government to have priority in transmission of messages.
 458. Government entitled to purchase lines.
 459. Acceptance of obligations to be filed.
 460. Penalty for refusal to transmit dispatches.
 461. Timber lands to be patented subject to accrued right of way and water-rights.</p> |
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Navigable rivers public highways.

Streams not navigable, banks of.

Right of way for highways over public lands.

If lands granted for right of way are not used, &c., to revert to the Government.

Mineral locators' rights of possession and enjoyment.

SEC. 440. All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and, in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

1 Stat. 468; 2 *id.* 235: R. S. 2476.

SEC. 441. The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

14 Stat. 253; R. S. 2477. *Railway Co. v. Gordon*, S. C. Mich., Oct. T. 1879 (7 Copp's L. O. 158).

SEC. 442. If any rail or plank road or macadamized turn-pike company to whom the right of way or sites for watering places, depots and work-shops over and through the public lands of the United States was granted by the act of Congress approved August fourth, eighteen hundred and fifty-two, and by the acts amendatory thereto, shall at any time after its completion be discontinued or abandoned by said company or companies, the grants made by said acts shall cease and determine, and the lands shall revert back to the United States.

10 Stat. 28, 29, 683; 12 *id.* 577. Decision Com. G. L. O., July 16, 1857.

SEC. 443. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they

comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

17 Stat. 91; 19 *id.* 52; R. S. 2322. (For authorities see sec. 390.)

SEC. 414. Where two or more veins of mining claims intersect or cross each other, the owners of the mine last located shall have the right of way through the space of intersection for the purposes of the convenient working of the mine.

Right of way
in intersecting
veins in mines.

17 Stat. 96; 19 *id.* 52; R. S. 2336. (For authorities see sec. 404.)

SEC. 415. As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

What conditions
of sale may be
made by local
legislature.

14 Stat. 252; 19 *id.* 52; R. S. 2338.

SEC. 416. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

Vested rights
to use of water
for mining, &c.;
right of way for
canals.

14 Stat. 253; R. S. 2339. (For authorities see sec. 422.)

SEC. 417. All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under or recognized by the preceding section.

Patents, pre-
emptions, and
homesteads sub-
ject to vested and
accrued water
rights.

16 Stat. 218; R. S. 2340. (For authorities see sec. 423.)

Right of way, materials, station grounds, &c., granted to railroads.

SEC. 448. The right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station-buildings, depots, machine-shops, side-tracks, turn-outs, and water-stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road.

18 Stat. 482. *Railway Co. v. Benity*, 5 Saw. C. C. 118. *Railway Co. v. Gould*, 21 Cal. 254; *Doran v. Railway Co.*, 21 *id.* 245. Decisions Sec. Int., June 30, 1875 (Copp's L. L. 388); July 26, 1876; Sept. 5, 1878; Sept. 11, 1878; June 5, 1879; Nov. 17, 1879 (6 Copp's L. O. 162). Decisions Com. G. L. O., Oct. 8, 1875; Jan. 11, 1876; March 1, 1876; May 10, 1877 (4 Copp's L. O. 91); Jan. 6, 1879; Jan. 21, 1879; Sept. 21, 1879; Sept. 29, 1879. *Cir. G. L. O.*, March 9, 1878 (5 Copp's L. O. 35); Nov. 7, 1879 (6 *id.* 141).

Rights of several railroads through cañon, pass, or defile.

Crossing at grade.

Wagon roads, rights of.

SEC. 449. Any railroad company whose right of way, or whose track or road-bed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass or defile shall not cause the disuse of any wagon or other public highway now located therein, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

18 Stat. 482. *Denver & Rio Grande R. R. Co. v. Cañon City & San Juan R. R. Co.*, 9 Otto, 463. Decisions Sec. Int., Sept. 5, 1878; Sept. 11, 1878.

Private lands and possessory claims, how condemned.

SEC. 450. The legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provision shall not have been made, such condemnation may be made in accordance with section three of the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Gov-

ernment the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-four.

13 Stat. 357; 18 *id.* 482, 483. Decision Com. G. L. O., Jan. 21, 1879.

SEC. 451. Any railroad company desiring to secure the benefits of this act, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

Profile of road claiming benefits, when to be filed.

Disposal of lands subject to right of way.

Forfeiture of right.

18 Stat. 483. Decisions Sec. Int., Sept. 22, 1877; Sept. 5, 1878; Sept. 11, 1878; June 5, 1879. Decisions Com. G. L. O., July 17, 1875; May 10, 1877 (4 Copp's L. O. 91); Oct. 1, 1878. Cir. G. L. O., March 9, 1878 (5 Copp's L. O. 35); Nov. 7, 1879 (6 *id.* 141).

SEC. 452. This act shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands specially reserved from sale, unless such right of way shall be provided for by treaty stipulation or by act of Congress heretofore passed.

Application of this act.

18 Stat. 483.

SEC. 453. Congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof.

Right to alter, amend, &c.

18 Stat. 483.

SEC. 454. Any telegraph company now organized, or which may hereafter be organized, under the laws of any State, shall have the right to construct, maintain, and operate lines of telegraph through and over any portion of the public domain of the United States, over and along any of the military or post roads of the United States which have been or may hereafter be declared such by law, and over, under, or across the navigable streams or waters of the United States; but such lines of telegraph shall be so constructed and maintained as not to obstruct the navigation of such streams and waters, or interfere with the ordinary travel on such military or post roads.

Use of public domain, &c., by telegraph company.

14 Stat. 221; 19 *id.* 232; R. S. 5253.

SEC. 455. Any telegraph company organized under the laws of any State shall have the right to take and use from the public lands through which its lines of telegraph may pass, the necessary stone, timber, and other materials for its posts, piers, stations, and other needful uses in the construction, maintenance, and operation of its lines of telegraph, and may pre-empt and use such portion of the unoccupied public lands subject to pre-emption through which

Use of materials from public lands.

their lines of telegraph may be located as may be necessary for their stations, not exceeding forty acres for each station; but such stations shall not be within fifteen miles of each other.

14 Stat. 221; R. S. 5261.

**These rights
not transferable.**

SEC. 456. The rights and privileges granted under the provisions of the act of July twenty-four, eighteen hundred and sixty-six, entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," or under sections four hundred and fifty-four to four hundred and sixty, inclusive, shall not be transferred by any company acting thereunder to any other corporation, association, or person.

14 Stat. 221; R. S. 5265.

**Government to
have priority in
transmission of
messages.**

SEC. 457. Telegrams between the several Departments of the Government and their officers and agents, in their transmission over the lines of any telegraph company to which has been given the right of way, timber, or station lands from the public domain shall have priority over all other business, at such rates as the Postmaster-General shall annually fix. And no part of any appropriation for the several Departments of the Government shall be paid to any company which neglects or refuses to transmit such telegrams in accordance with the provisions of this section.

14 Stat. 221; 17 *id.* 257, 366, 367; R. S. 5266.

**Government en-
titled to purchase
lines.**

SEC. 458. The United States may, for postal, military, or other purposes, purchase all the telegraph lines, property, and effects of any or all companies acting under the provisions of the act of July twenty-four, eighteen hundred and sixty-six, entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," or under sections four hundred and fifty-four to four hundred and sixty, inclusive, at an appraised value, to be ascertained by five competent, disinterested persons, two of whom shall be selected by the Postmaster-General of the United States, two by the company interested, and one by the four so previously selected.

14 Stat. 221; 18 *id.* 250; R. S. 5267.

**Acceptance of
obligation to be
filed.**

SEC. 459. Before any telegraph company shall exercise any of the powers or privileges conferred by law such company shall file their written acceptance with the Postmaster-General of the restrictions and obligations required by law.

14 Stat. 222; R. S. 5268.

**Penalty for re-
fusal to transmit
dispatches.**

SEC. 460. Whenever any telegraph company, after having filed its written acceptance with the Postmaster-General of the restrictions and obligations required by the act approved July twenty-four, eighteen hundred and sixty-six, entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," or by sections four hundred and

fifty-four to four hundred and sixty, inclusive, shall, by its agents or employés, refuse or neglect to transmit any such telegraphic communications as are provided for by the aforesaid act, or by said sections, or by the provisions of section two hundred and twenty-one of the Revised Statutes, authorizing the Secretary of War to provide for taking meteorological observations at the military stations and other points of the interior of the continent, and for giving notice on the northern lakes and sea-board of the approach and force of storms, such telegraph company shall be liable to a penalty of not less than one hundred dollars and not more than one thousand dollars for each such refusal or neglect, to be recovered by an action or actions at law in any district court of the United States.

17 Stat. 333, 367; 19 *id.* 232, 252; R. S. 5269.

SEC. 461. All patents for lands within the States of California, Oregon, and Nevada and in Washington Territory, ^{Timber lands to be patented subject to accrued right of way and water-rights.} valuable chiefly for timber, but unfit for cultivation, which may be granted under the provisions of the act of Congress approved June third, eighteen hundred and seventy-eight, shall not be held to abrogate the right of way of ditch and canal owners acquired under the provisions of the act of July twenty-sixth, eighteen hundred and sixty-six, and all such patents shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

20 Stat. 89. (For authorities, see section 423.)

CHAPTER TWENTY.

PRIVATE LAND CLAIMS.

See.

462. Patents to issue for claims heretofore confirmed.

463. Price of surveys, how fixed.

464. Certificates of location or scrip to issue in satisfaction of confirmed pri-

Sec.

vate land claims which cannot be located.

465. Issuance and location of judicial scrip in lieu of confirmed private land claims.

Patents to issue for claims heretofore confirmed.

SEC. 462. In case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land Office of plats of survey thereof, duly approved by the surveyor-general of any State or Territory, if the same be found correct by the Commissioner. But such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

10 Stat. 599; R. S. 2447. *Villalobos v. U. S.*, 10 How. 541; *Stanford v. Taylor*, 18 *id.* 409; *Ledoux v. Black et al.*, 18 *id.* 473; *U. S. v. Fossat*, 20 *id.* 413; *U. S. v. Fossat*, 21 *id.* 445; *Castro v. Hendricks*, 23 *id.* 438; *Ballance v. Forsyth*, 24 *id.* 183; *Greer v. Mezes*, 24 *id.* 268; *Carondelet v. St. Louis*, 1 Black, 179; *Maguire v. Tyler et al.*, 1 *id.* 195; *U. S. v. Covilland*, 1 *id.* 339; *U. S. v. Sepulveda*, 1 Wall. 104; *U. S. v. Halleck*, 1 *id.* 439; *U. S. v. Vallejo*, 1 *id.* 658; *U. S. v. Estudillo*, 1 *id.* 710; *U. S. v. Billings*, 2 *id.* 444; *Sutter's case*, 2 *id.* 562; *U. S. v. Pacheco*, 2 *id.* 587; *Fossat case*, 2 *id.* 649; *Dehon v. Bernal*, 3 *id.* 774; *U. S. v. Armijo*, 5 *id.* 444; *Higuera v. U. S.*, 5 *id.* 827; *Alviso v. U. S.*, 8 *id.* 337; *Maguire v. Tyler*, 8 *id.* 650; *Lynch v. Bernal*, 9 *id.* 315; *Henshaw v. Bissell*, 18 *id.* 255; *Shepley et al. v. Cowan et al.*, 1 Otto, 339; *Miller et al. v. Dale et al.*, 2 *id.* 473; *Tameling v. U. S. F. & E. Co.*, 3 *id.* 644; *Van Reynegan v. Bolton*, 5 *id.* 33; *U. S. v. Throckmorton*, 8 *id.* 61; *Snyder v. Sickles*, 8 *id.* 203; *U. S. v. Garcia*, 1 Saw. C. C. 583; *Leroy v. Jamison*, 3 *id.* 369; *U. S. v. Flint*, 4 *id.* 42; *U. S. v. Castro*, 5 *id.* 625; 9 Op. Att. Gen. 397; 12 *id.* 116, 250; 14 *id.* 74, 624. *Whitney v. Nelson*, 33 Wis. 365; *Board of Com'rs v. Central & Co.*, 2 Colo. 628; *Waterman v. Smith*, 13 Cal. 373; *Moore v. Wilkerson*, 13 *id.* 478; *Boggs v. Merced Mfg. Co.*, 14 *id.* 279; *Yount v. Howell*, 14 *id.* 465; *Mott v. Smith*, 16 *id.* 534; *Johnson v. Van Dyke*, 20 *id.* 225; *Mahoney v. Van Winkle*, 21 *id.* 552; *Thornton v. Mahoney*, 24 *id.* 569; *McGarrahan v. Maxwell*, 27 *id.* 75; *Treadway v. Sample*, 28 *id.* 652; *Seal v. Ford*, 29 *id.* 104; *Mahoney v. Van Winkle*, 33 *id.* 448; *Morrill v. Chapman*, 35 *id.* 85; *Bernal v. Lynch*, 36 *id.* 135; *Piper v. True*, 36 *id.* 606; *San José v. Uridias*, 37 *id.* 339; *Moore v. Massini*, 37 *id.* 432; *Yates v. Smith*, 38 *id.* 60; *Sabieda v. Aguilar*, 43 *id.* 285; *Miller v. Dale*, 44 *id.* 562; *Chipley v. Farns*, 45 *id.* 527; *San Diego v. Allison*, 46 *id.* 163; *Cassidy v. Carr*, 48 *id.* 339; *Morris v. De Celis*, 51 *id.* 55; *Cabunne v. Lindell*, 12 Mo. 184; *McGill v. Souers*, 15 *id.* 80; *St. Louis*

v. Tonly 21 *id.* 243; *Schultz v. Lindell*, 24 *id.* 567; *Maguire v. Tyler*, 25 *id.* 484; *City of Carondelet v. City of St. Louis*, 29 *id.* 527; *Maguire v. Tyler*, 30 *id.* 202; *McCune v. O'Fallon*, 32 *id.* 13; *Mitchell v. Handfield*, 33 *id.* 431; *Robins v. Eckler*, 36 *id.* 494; *Vasquez v. Ewing*, 42 *id.* 247; *Elasgon v. Lindell*, 50 *id.* 60; *Metroyer v. Larenandiere*, 6 Rob. (La.) 139; *Beatty v. Michon*, 9 La. Ann. 102. Decisions Sec. Int., Feb. 23, 1859 (1 *Lester's L. L.* 647); April 27, 1859 (1 *id.* 649); July 23, 1859 (1 *id.* 650); July 30, 1859 (1 *id.* 652); Aug. 10, 1859 (1 *id.* 654); Sept. 1, 1859 (1 *id.* 657); Sept. 6, 1870; July 31, 1871 (Copp's L. L. 529); Jan. 6, 1872 (*id.* 532); Feb. 21, 1872 (*id.* 548); March 15, 1872 (*id.* 559); Sept. 2, 1872 (*id.* 567); March 21, 1873; May 21, 1873; (Copp's L. L. 567) July 23, 1873 (*id.* 559); Feb. 28, 1874 (*id.* 607); March 17, 1874; June 18, 1874 (Copp's L. L. 573); July 15, 1874 (*id.* 577); Aug. 15, 1874; Dec. 5, 1874 (Copp's L. L. 611); June 1, 1875 (2 Copp's L. O. 53); Feb. 4, 1876 (2 *id.* 182); April 22, 1876 (3 *id.* 23); Aug. 8, 1876 (3 *id.* 98); Aug. 17, 1876 (3 *id.* 90); March 16, 1877 (4 *id.* 4); July 11, 1878; Aug. 9, 1878; Oct. 21, 1878; Dec. 19, 1878; March 11, 1879; May 17, 1879; May 21, 1879; May 28, 1879; June 9, 1879; April 20, 1880 (7 Copp's L. O. 70); May 17, 1880 (7 *id.* 40). Decisions Com. G. L. O., Aug. 18, 1860; Feb. 10, 1868; Nov. 13, 1868; Dec. 14, 1870; May 20, 1871; Aug. 23, 1871; July 9, 1872; Aug. 13, 1872; Nov. 25, 1873; Nov. 3, 1874; Sept. 18, 1874 (Copp's L. L. 590); Feb. 12, 1875 (2 Copp's L. O. 101); March 20, 1875 (2 *id.* 12); July 19, 1875 (2 *id.* 52); Sept. 18, 1875 (2 *id.* 119); Sept. 24, 1875 (2 *id.* 135); May 13, 1876; June 27, 1877; Feb. 21, 1878; April 13, 1878; Sept. 18, 1878; Nov. 11, 1878; Nov. 16, 1878; March 21, 1879 (6 Copp's L. O. 78); March 27, 1879 (6 *id.* 127); July 14, 1879 (6 *id.* 78).

SEC. 463. The Commissioner of the General Land Office has power, and it shall be his duty, to fix the prices per mile for public surveys, which shall in no case exceed the maximum established by law; and, under instructions to be prepared by the Commissioner, an accurate account shall be kept by each surveyor-general of the cost of surveying and platting private land claims, to be reported to the General Land Office, with the map of such claim, and patents shall not issue for any such private claim until the cost of survey and platting has been paid into the Treasury by the claimant.

Price of surveys, how fixed.

12 Stat. 409; 18 *id.* 304; R. S. 2400. (For authorities see Sec. 112.)

SEC. 464. Where any private land claim was confirmed by Congress prior to June second, eighteen hundred and fifty-eight, and the same, in whole or in part, is located or satisfied, either for want of a specific location prior to such confirmation, or for any reason whatsoever, other than a discovery of fraud in such claim subsequent to such confirmation, it shall be the duty of the surveyor-general of the district in which such claim was situated, upon satisfactory proof that such claim has been so confirmed, and that the same, in whole or in part, remains unsatisfied, to issue to the claimant, or his legal representatives, certificates of location for a quantity of land equal to that so confirmed and unsatisfied, which certificates of location or scrip shall be subdivided according to the request of the confirmer or confirmeres, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of

Certificate of location or scrip to be issued in satisfaction of confirmed private land claims which have not been located.

the original owners of the scrip, including the right to locate the same in his own name upon any of the public lands of the United States subject to sale at private entry, at a price not exceeding one dollar and twenty-five cents per acre, and shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

11 Stat. 294, 295; 20 *id.* 274, 275. (For authorities see Sec. 341.)

Issuance and location of judicial scrip in lieu of confirmed private land claims.

SEC. 465. Whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States of Florida, Louisiana and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land, the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of this section; and said certificate of location or scrip shall be subdivided according to the request of the conferee or conferees, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name; such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

12 Stat. 85, 86; 20 *id.* 274, 275. (For authorities see Sec. 342.)

NOTE.—For acts providing for the adjustment of private land claims in the different States and Territories, see "Local and Temporary Laws," under the caption of each State and Territory.

CHAPTER TWENTY-ONE.

MISCELLANEOUS PROVISIONS RELATING TO THE PUBLIC LANDS.

Sec.	Sec.
466. Cases of suspended entries of public lands and suspended pre-emption claims.	476. (Continued.) President authorized to remove intruders.
467. Adjudications under above, how approved.	Mode of removal. Marshal, &c., authorized under instructions from the President to oust intruders.
468. Report of adjudications under preceding sections.	477. Forging, counterfeiting, or passing military bounty-land warrants.
469. Decisions to be arranged into classes.	478. Authentication of foreign records relating to lands.
470. Patents to issue for lands in the first class, and lands in the second class to revert to the United States.	479. Perjury in oaths used in land offices.
471. Commissioner to order into market lands of second class.	480. Forgery of letters patent.
472. Patents surrendered and new ones issued in certain cases.	481. Forgery of bid, public record, &c.
473. Extent of foregoing provisions.	482. Forging deed, power of attorney, &c.
474. Copies of records, &c., to be certified.	483. Having forged papers in possession.
475. Exemplifications valid without names of officers signing and countersigning.	484. Dispossessed occupants of land to have remedies in certain cases.
476. Lands of United States by whatever title acquired, not to be occupied, possessed, or settled but with consent of United States.	485. Connection of other railroads with Union Pacific, &c.
Titles of intruders forfeited.	486. Inter-state communication.
	487. Compensation of directors, &c., appointed by the United States. Patents for lands, when withheld.

SEC. 466. The Commissioner of the General Land Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Interior, the Attorney-General, and the Commissioner, conjointly, consistently with such principles, all cases of suspended entries of public lands and of suspended pre-emption land claims, and to adjudge in what cases patents shall issue upon the same.

Cases of suspended entries of public lands and suspended pre-emption claims.

9 Stat. 51; 10 *id.* 258; 11 *id.* 22; 18 *id.* 50; 19 *id.* 244; R. S. 2450. 14 Op. Att. Gen. 636, 645. Decisions Sec. Int., Dec. 27 (1 Lester's L. L. 484); May 12, 1859 (1 *id.* 486); May 26, 1859 (1 *id.* 488); Aug. 12, 1859 (1 *id.* 487); Oct. 6, 1859 (1 *id.* 490); Dec. 2, 1859 (1 *id.* 491); May 19, 1871 (Copp's L. L. 753); Nov. 3, 1871 (*id.* 755); Nov. 13, 1872 (*id.* 755); March 31, 1873 (*id.* 755); April 11, 1876 (3 Copp's L. O. 19); June 27, 1878 (5 *id.* 101); Dec. 5, 1878 (5 *id.* 146); May 28, 1880 (7 *id.* 91). Decision Com. G. L. O., Sept. 3, 1878 (5 Copp's L. O. 117). Rules and Regulations, Oct. 3, 1846 (1 Lester's L. L. 482); March 13, 1847 (1 *id.* 483); March 16, 1854 (1 *id.* 484); April 25, 1877 (G. L. O. Rep. 1877, p. 100).

SEC. 467. Every such adjudication shall be approved by the Secretary of the Interior and the Attorney-General, acting as a board; and shall operate only to divest the United States of the title of the lands embraced thereby, without prejudice to the rights of conflicting claimants.

Adjudications under above, how approved.

9 Stat. 51; 19 *id.* 244; R. S. 2451. 14 Op. Att. Gen. 636, 645. Decisions Sec. Int., Aug. 12, 1859 (1 Lester's L. L. 487); June 27, 1878 (5 Copp's L. O. 101). Rules and Regulations, Oct. 3, 1846 (1 Lester's L. L. 482); April 25, 1877 (G. L. O. Rep. 1877, p. 100).

Report of adjudications under preceding sections.

SEC. 468. The Commissioner is directed to report to Congress at the first session after any such adjudications have been made a list of the same under the classes prescribed by law, with a statement of the principles upon which each class was determined.

9 Stat. 51; R. S. 2452.

Decisions to be arranged into classes.

SEC. 469. The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

9 Stat. 51; R. S. 2453. Rules and Regulations, Oct. 3, 1846 (1 Lester's L. L. 482); April 25, 1877 (G. L. O. Rep. 1877, p. 100).

Patents to issue for lands in the first class, and lands in second class to revert to the United States.

SEC. 470. For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class shall ipso facto revert to, and become part of, the public domain.

9 Stat. 51; R. S. 2454.

Commissioner to order into market lands of second class.

SEC. 471. It may be lawful for the Commissioner of the General Land Office to order into market, after due notice, without the formality and expense of a proclamation of the President, all lands of the second class, though heretofore unproclaimed and unoffered, and such other isolated or disconnected tracts or parcels of unoffered lands which, in his judgment, it would be proper to expose to sale in like manner. But public notice of at least thirty days shall be given by the land officers of the district in which such lands may be situated, pursuant to the directions of the Commissioner.

9 Stat. 51; R. S. 2455. 14 Op. Att. Gen. 636.

Patents surrendered and new ones issued in certain cases.

SEC. 472. Where patents have been already issued on entries which are confirmed by the officers who are constituted the board of adjudication, the Commissioner of the General Land Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry, his heirs or assigns.

10 Stat. 258; R. S. 2456.

Extent of foregoing provisions.

SEC. 473. The preceding provisions from section four hundred and sixty-six to section four hundred and seventy-two, inclusive, shall be applicable to all cases of suspended entries and locations, which have arisen in the General Land Office since the twenty-sixth day of June, eighteen hundred and fifty-six, as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and pre-emption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or pre-emptor are prejudiced, or where there is no adverse claim.

11 Stat. 22; R. S. 2457.

Copies of records, &c., to be certified.

SEC. 474. The Commissioner of the General Land Office shall cause to be prepared, and shall certify, under the seal

of the office, such copies of records, books and papers on file in his office, as may be applied for, to be used in evidence in courts of justice. All exemplifications of patents, or papers on file or of record in the General Land Office, which may be required by parties interested, shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and two dollars for copies of township plats or diagrams, with an additional sum of one dollar for the Commissioner's certificate of verification with the General Land Office seal; and one of the employes of the office shall be designated by the Commissioner as the receiving clerk, and the amount so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authenticated copies as may be required by the officers of any branch of the Government, nor for such unverified copies as the Commissioner in his discretion may deem proper to furnish.

5 Stat. 111; 13 *id.* 375; R. S. 461, 891, 2469. *Polk v. Wendell*, 5 Wheat. 293; *Galt v. Galloway*, 4 Pet. 331. *Lacy v. Davis*, 4 Mich. 140; *Gilman v. Riopelle*, 18 *id.* 144; *Clark v. Hill*, 19 *id.* 354; *Boyce v. Slambaugh*, 34 *id.* 348; *Boyce v. McLean*, 24 Wis. 225; *Ansley v. Peterson*, 30 *id.* 653; *McLean v. Boyce*, 35 *id.* 27; *Kelly v. Wallace*, 14 Minn. 236; *Washburn v. Mendenhall*, 21 *id.* 332; *Harris v. Doe*, 4 Blackf. (Ind.) 369; *Bowser v. Warren*, 4 *id.* 522; *Lane v. Bonnelman*, 17 Ills. 95; *Sawyer v. Cox*, 63 *id.* 130. Cir. G. L. O., July 20, 1875 (Copp's L. L. 824).

SEC. 475. Literal exemplifications of any records which have been or may be granted in virtue of the preceding section shall be deemed of the same validity in all proceedings, whether at law or in equity, wherein such exemplifications are adduced in evidence, as if the names of the officers signing and countersigning the same had been fully inserted in such record.

Exemplifications valid without names of officers signing and countersigning.

5 Stat. 627; R. S. 891, 2470. Cir. G. L. O., July 20, 1875 (Copp's L. L. 824).

SEC. 476. If any person or persons shall take possession of, or make a settlement on any lands ceded or secured to the United States, by any treaty made with a foreign nation, or by a cession from any State to the United States, which lands shall not have been previously sold, ceded, or leased by the United States, or the claim to which lands, by such person or persons, shall not have been previously recognized and confirmed by the United States: or if any person or persons shall cause such lands to be thus occupied, taken possession of, or settled: or shall survey, or attempt to survey, or cause to be surveyed, any such lands; or designate any boundaries thereon, by marking trees, or otherwise, until thereto duly authorized by law; such offender or offenders, shall forfeit all his or their right, title, and claim, if any he hath, or they have, of whatsoever nature or kind the same shall or may be, to the lands aforesaid, which he or they shall have taken possession of, or settled, or caused to be occupied, taken possession of, or settled, or which he or they shall have surveyed, or attempt to survey, or cause to be surveyed, or the boundaries thereof he or they shall

Lands of the United States, by whatsoever title acquired, not to be occupied, possessed, or settled but with the consent of the United States. Titles of intruders forfeited.

President authorized to have them removed. The mode of doing this.

Marshals, &c., authorized, under instructions from the President, to oust intruders.

have designated, or cause to be designated, by marking trees or otherwise. And it shall moreover be lawful for the President of the United States, to direct the marshal, or officer acting as marshal, in the manner hereinafter directed, and also to take such other measures, and to employ such military force as he may judge necessary and proper, to remove from lands ceded, or secured to the United States, by treaty, or cession as aforesaid, any person or persons who shall hereafter take possession of the same, or make, or attempt to make, a settlement thereon, until thereunto authorized by law. And every right, title, or claim, forfeited under this act, shall be taken and deemed to be vested in the United States, without any other or further proceedings; and it shall be lawful for the proper marshal, or officer acting as marshal, under such instructions as may for that purpose be given by the President of the United States, to remove from such lands any and every person or persons who shall be found on the same.

2 Stat. 445, 480; 4 *id.* 665. *Dupas v. Wassell*, 1 Dillon, C. C. 213. 1 Op. Att. Gen. 164, 180, 471, 475, 703; 2 *id.* 575; 3 *id.* 255, 566; 7 *id.* 535; 10 *id.* 71, 184. *Wood v. Railway Co.*, 11 Kansas, 323; *Boston v. Dodge*, 1 Blackf. (Ind.) 18; *McKiernan v. Hesse*, 51 Cal. 594; *Duncan v. Hall*, 9 Ala. 128; *Floyd v. Ricks*, 14 Ark. 286.

Forging, counterfeiting, or passing military bounty-land warrants.

SEC. 477. Every person who falsely makes, alters, forges, or counterfeits any military bounty-land warrant, or military bounty-land warrant certificate, issued or purporting to have been issued by the Commissioner of Pensions under any act of Congress, or any certificate of location of any military bounty-land warrant, or any duplicate thereof, or military bounty-land warrant certificate upon any of the lands of the United States, or any certificate of the purchase of any of the lands of the United States, or any duplicate certificate of the purchase of any of the lands of the United States, or any receipt for the purchase money of any of the lands of the United States, or any duplicate receipt for the purchase money of any lands of the United States, issued or purporting to have been issued by the register and receiver at any land office of the United States, or by either of them, or who passes, utters, or publishes as true any false, forged, or counterfeited military bounty-land warrant, military bounty-land warrant certificate, certificate of location, or duplicate certificate of location, certificate of purchase, duplicate certificate of purchase, receipt or duplicate receipt, for the purchase money of any of the lands of the United States, knowing the same to be false or forged, shall be imprisoned at hard labor not less than three years nor more than ten years.

11 Stat. 381; R. S. 5420.

Authentication of foreign records relating to lands.

SEC. 478. It may and shall be lawful for the keepers or persons having the custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of one of the *head* of one of the departments, the Solicitor of the Treasury, or the Commissioner of the General Land Office, to authenticate the same under his hand and seal, and certify the same to be correct and true copies

of such laws, judgments, orders, decrees, journals, correspondence, or other public documents; and when the same shall be certified by an American minister or consul under his hand and seal of office, or by a judge of one of the United States courts under his hand and seal, to be true copies of the originals, the same shall be sealed up by him and returned to the Solicitor of the Treasury, who shall file the same in his office, and cause it to be recorded in a book to be kept for that purpose. A copy of said laws, judgments, orders, decrees, journals, correspondence, or other public documents so filed, or of the same so recorded in said book, may be read in evidence in all courts, where the title to land claimed by or under the United States may come into question, equally with the originals thereof.

9 Stat. 350, 351. *U. S. v. Delespine's Heirs*, 12 Pet. 654; *U. S. v. Wiggins*, 14 *id.* 334; *U. S. v. Rodman*, 15 *id.* 130; *U. S. v. Delespine's Heirs*, 15 *id.* 226; *U. S. v. Brewart*, 16 *id.* 143; *U. S. v. Acosta*, 1 How. 24; *U. S. v. Le Blanc*, 12 *id.* 435; *U. S. v. Peralta*, 19 *id.* 343. *Gregory v. McPherson*, 13 Cal. 562; *People v. Kelly*, 38 *id.* 145.

SEC. 479. In all cases where any oath, affirmation, or affidavit shall be made or taken before any register or receiver, or either or both of them of any local land office in the United States or any Territory thereof, or where any oath, affirmation, or affidavit, shall be made or taken before any person authorized by the laws of any State or Territory of the United States to administer oaths or affirmations, or take affidavits, and such oaths, affirmations, or affidavits are made, used, or filed in any of said local land offices, or in the General Land Office, as well in cases arising under any or either of the orders, regulations, or instructions, concerning any of the public lands of the United States, issued by the Commissioner of the General Land Office, or other proper officer of the Government of the United States, as under the laws of the United States, in any wise relating to or effecting any right, claim, or title, or any contest therefor, to any of the public lands of the United States, and any person or persons shall, taking such oath, affirmation or affidavit, knowingly, wilfully, or corruptly swear or affirm falsely, the same shall be deemed and taken to be perjury, and the person or persons guilty thereof shall, upon conviction, be liable to the punishment prescribed for that offence by the laws of the United States.

Perjury in oaths
used in land offices.

11 Stat. 250, 251. *People v. Kelly*, 38 Cal. 145; *Barrell v. How*, 48 *id.* 223; *Ainsworth v. Miller*, 20 Kansas, 220.

SEC. 480. Every person who falsely makes, forges, counterfeits, or alters any letters-patent granted, or purporting to have been granted by the President of the United States; or who passes, utters, or publishes, or attempts to pass, utter, or publish as genuine, any such forged, counterfeited, or falsely altered letters-patent, knowing the same to be forged, counterfeited, or falsely altered, shall be punished by a fine of not more than five thousand dollars; and by imprisonment at hard labor not more than ten years.

4 Stat. 119; R. S. 5416.

SEC. 481. Every person who falsely makes, alters, forges, or counterfeits any bid, proposal, guarantee, official bond,

Forgery of letters-patents.

Forging, &c.,
bid, public road,
ord, &c.

public record, affidavit, or other writing, for the purpose of defrauding the United States, or utters or publishes as true any such false, forged, altered, or counterfeited bid, proposal, guarantee, official bond, public record, affidavit, or other writing, for such purpose, knowing the same to be false, forged, altered, or counterfeited or transmits to or presents at the office of any officer of the United States any such false, forged, altered, or counterfeited bid, proposal, guarantee, official bond, public record, affidavit, or other writing, knowing the same to be false, forged, altered, or counterfeited, for such purpose, shall be imprisoned at hard labor for a period not more than ten years, or be fined not more than one thousand dollars, or be punished by both such fine and imprisonment.

14 Stat. 12; R. S. 5418.

Forging deed,
power of attor-
ney, &c.

SEC. 482. Every person who falsely makes, alters, forges, or counterfeits; or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids or assists in the false making, altering, forging, or counterfeiting, any deed, power of attorney, order, certificate, receipt, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any of their officers or agents, any sum of money; or who utters or publishes as true, or causes to be uttered or published as true, any such false, forged, altered, or counterfeited deed, power of attorney, order, certificate, receipt, or other writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or who transmits to, or presents at, or causes or procures to be transmitted to, or presented at, any office or officer of the Government of the United States, any deed, power of attorney, order, certificate, receipt, or other writing, in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited, shall be imprisoned at hard labor for a period of not less than one year nor more than ten years; or shall be imprisoned not more than five years, and fined not more than one thousand dollars.

3 Stat. 771; R. S. 5421.

Having forged
papers in posses-
sion.

SEC. 483. Every person who, knowingly and with intent to defraud the United States, has in his possession any false, altered, forged, or counterfeited deed, power of attorney, order, certificate, receipt, or other writing, for the purpose of enabling another to obtain from the United States, or any of their officers or agents, any sum of money, shall be fined and imprisoned at the discretion of the court.

3 Stat. 772; R. S. 5422.

Dispossessed
occupants of land
to have remedies
in certain cases.

SEC. 484. When an occupant of land, having color of title, in good faith has made valuable improvements thereon, and is, in the proper action, found not to be the rightful owner thereof, such occupant shall be entitled in the Federal courts to all the rights and remedies, and, upon instituting the proper proceedings, such relief as may be given or secured to him by the statutes of the State or Territory where the

land lies, although the title of the plaintiff in the action may have been granted by the United States after said improvements were so made.

18 Stat. 50.

SEC. 485. Any railroad company now or hereafter incorporated under any law of the United States, or of any State, which has been or may be organized by an act of Congress, may connect its road with the Union Pacific Railroad, or any of its branches.

Connection of other railroads with Union Pacific, &c.

12 Stat. 496; 18 *id.* 112; R. S. 5257.

SEC. 486. Every railroad company in the United States, whose road is operated by steam, its successors and assigns, is hereby authorized to carry upon and over its road, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination. But this section shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road, nor shall it be construed to authorize any railroad company to build any new road or connection with any other road without authority from the State in which such railroad or connection may be proposed. And Congress may at any time alter, amend, or repeal this section.

Inter-state communication.

14 Stat. 66; R. S. 5258.

SEC. 487. Whenever, in any grant of land or other subsidies, made or hereafter to be made, to railroads or other corporations, the United States has reserved the right, or shall reserve it, to appoint directors, engineers, commissioners, or other agents to examine the roads, or act in conjunction with other officers of such company or companies, all the costs, charges, and pay of such directors, engineers, commissioners, or agents shall be paid by the respective companies. Such directors, engineers, commissioners, or agents shall be paid for such services the sum of ten dollars per day, for each and every day actually and necessarily employed, and ten cents per mile for each and every mile actually and necessarily traveled, in discharging the duties required of them, which per diem and mileage shall be in full compensation for such services. In case any company shall refuse or neglect to make such payments, no more patents for lands or other subsidies shall be issued to such company until these requirements are complied with.

Compensation of directors, &c., appointed by the United States.

Patents for lands, when withheld.

14 Stat. 299; R. S. 5259.

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SUPPLEMENT.

JOINT RESOLUTION for the printing of additional copies of House Executive Document Number Forty-seven and subsequent land laws.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That eight thousand five hundred additional copies of the codified land laws and history of the public domain of the United States, compiled and prepared by the Public Land Commission, embraced in House Executive Document Number Forty-seven, with all subsequent laws which may have been passed by Congress prior to the adjournment of the present session, be printed and bound, under the direction of the Secretary of the Interior two thousand copies for the use of the Senate, five thousand for the use of the House of Representatives, and fifteen hundred for the use of the Secretary of the Interior. Provided that the copies for the use of the Senate and the House of Representatives shall be distributed by the Secretary of the Interior in the manner provided for the distribution of the Reports of the tenth Census and that all copies not ordered to be distributed within two years after the passage of this act shall be sold by the Secretary of the Interior at cost of publication with ten per centum added thereto.

22 Stat. 393, Aug. 7, 1882.—20 *ib.* 394.—21 *ib.* 245.

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P R E F A C E .

In compliance with the foregoing Joint Resolution of Congress, this Supplement, embracing the land laws of a general and permanent character, passed at the third session of the Forty-sixth, and the first session of the Forty-seventh Congress, prepared under the direction of the Commissioner of the General Land Office, is added to the contents of the volume containing the previous laws of that character, prepared for publication by the codification committee of the late Public Land Commission, bringing the compilation down to the 8th of August, 1882, the day of adjournment of said last-mentioned session.

The pages of the original volume having been stereotyped, the required addition is necessarily made as a supplement, instead of in the form more convenient for use of adding to each chapter the laws appropriate to it.

The plan of the original work, as to the division of subjects, form in which the laws are produced, &c., is substantially followed. The paging and the numbering of chapters are continued consecutively through the Supplement, to which a full index of the matter embraced therein is added.

For convenience and economy of binding, the "Digest of late Decisions," prepared in continuation of the "Citation of Decisions" published by the Land Commission in the second volume of Laws, "Local and Temporary," is included in this volume.

DECEMBER, 1882.

CHAPTER TWENTY-TWO.

DONATIONS.

[Original Vol., Chap. XV, p. 161.]

Sec.

488. Fees of registers and receivers, in addition to salary, in donation cases.

SEC. 488. The sixth paragraph of section twenty-two hundred and thirty-eight of the Revised Statutes of the United States is repealed, and in lieu thereof the following paragraph substituted: R. S. 2238 amended.

“A fee in donation cases of two dollars and fifty cents for each final certificate for one hundred and sixty acres of land, five dollars for three hundred and twenty acres, and seven dollars and fifty cents for six hundred and forty acres.” Fees for land certificates.

21 Stat. 311, Dec. 17, 1880.—R. S. 2238, ¶. 6.

12 Stat. 409, sec. 6.

CHAPTER TWENTY-THREE.

GENERAL GRANTS TO STATES AND TERRITORIES.

[Original Vol., Chap. XII, pp. 129-141.]

Sec.

489. Grants to Dakota, Montana, Arizona, Idaho, and Wyoming, for university purposes.

Lands granted to be selected under direction of Secretary of Interior.

SEC. 489. There are granted to the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming respectively, seventy-two entire sections of the unappropriated public lands within each of said Territories, to be immediately selected and withdrawn from sale and located under the direction of the Secretary of the Interior, and with the approval of the President of the United States, for the use and support of a university in each of said Territories when they shall be admitted as States into the Union: *Provided*, That none of said lands shall be sold except at public auction, and after appraisement by a board of commissioners, to be appointed by the Secretary of the Interior: *Provided further*, That none of said lands shall be sold at less than the appraised value, and in no case at less than two dollars and fifty cents per acre: *Provided*, That the funds derived from the sale of said lands shall be invested in the bonds of the United States and deposited with the Treasurer of the United States; that no more than one-tenth of said lands shall be offered for sale in any one year; that the money derived from the sale of said lands, invested and deposited as hereinbefore set forth, shall constitute a university fund; that no part of said fund shall be expended for university buildings, or the salary of professors or teachers, until the same shall amount to fifty thousand dollars, and then only shall the interest on said fund be used for either of the foregoing purposes until the said fund shall amount to one hundred thousand dollars, when any excess, and the interest thereof, may be used for the proper establishment and support respectively of said universities.

To be sold at auction, at not less than appraised value.

Funds to be invested in bonds of U.S., &c.

21 Stat. 326, Feb. 18, 1881.

CHAPTER TWENTY-FOUR.

HOMESTEADS.

[Original Vol., Chap. VIII, pp. 80-94.]

Sec.

490. Additional time to commence residence may be allowed by Commissioner of General Land Office.

SEC. 490. Section numbered twenty-two hundred and ninety-seven, of title numbered thirty-two of the Revised Statutes, is amended by adding thereto the following proviso, namely: *Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe.

Rev. Stat. 2297,
amended.

Time that may
be allowed set-
tler.

21 Stat. 511, Mar. 3, 1881.—*Ante* Sec. 223.

CHAPTER TWENTY-FIVE.

LAND DISTRICTS AND OFFICERS.

[Original Vol., Chap. IV, pp. 29-60.]

Sec.

491. (1.) Additional land district created in Kansas.
 (2.) President to appoint register and receiver under existing laws.
 (3.) Sales at offices of other districts confirmed.
492. (1, 2.) Two new land districts formed in Dakota.
 (3.) Limits of Watertown district in Dakota prescribed.

Sec.

493. (1.) Minnekadusa land district in Nebraska formed. Location of office to be designated by President.
 (2.) Hitchcock land district formed. Location of office to be directed by President.
 (3.) Registers and receivers for same to be appointed by President, with advice and consent of Senate.

KANSAS.

Territory described to constitute the southwestern district.

SEC. 491. (1.) The following described territory in the State of Kansas, to wit: Commencing at the southeast corner of township thirty-five, south range thirty-one west of the sixth principal meridian on the south boundary of the State of Kansas; thence west on said southern boundary to the western boundary of said State; thence north on said western boundary to the fourth standard parallel south; thence east along said parallel to the northeast corner of township twenty-one south, range thirty-one west, and thence south to the place of beginning, in the State of Kansas, shall constitute an additional land district, to be called the southwestern land district, the location for the office of which shall be designated by the President of the United States, and shall by him from time to time be changed, as the public interest may seem to require.

Location of office to be designated by President.

President to appoint register and receiver

(2.) The President is authorized, whenever the public interest shall require, to appoint, in accordance with existing laws authorizing appointment to office, a register and a receiver for the said district, who shall each be required to reside at the site of the office for said district, have the same powers, responsibilities, and emoluments, and be subject to the same acts and penalties which are, or may be, prescribed by law in relation to other land-offices of the United States.

Sales at offices of other districts confirmed.

(3.) All sales and locations made at the offices of the districts in which the lands embraced in this district have hitherto been included, situated wholly within the limits of this district, which shall be valid and right in other respects up to the day on which the new office shall go into operation, are confirmed.

21 Stat. 508, Mar. 3, 1881.—*Ante*, chap. 4, p. 46.

DAKOTA.

SEC. 492. (1.) All that part of the Territory of Dakota bounded as follows, to wit: Commencing at the southeast corner of township one hundred and nine north, range fifty-nine west of the fifth principal meridian; thence west along the second standard parallel north to the Missouri River; thence up and along the east bank of said river to a point where the fifth standard parallel north intersects said river; thence east along said standard parallel north to the northwest corner of township one hundred and twenty north, range fifty-nine west; thence south to the southwest corner of township one hundred and thirteen north, range fifty-nine west; thence east to the southeast corner of said township; thence south to the place of beginning, is constituted a new land district, the office of which shall be located at such place as shall be designated by the President of the United States.

Territory constituting new district.

Location of office to be designated by President.

(2.) All that part of the Territory of Dakota bounded as follows, to wit: Commencing at the northwest corner of township one hundred and twenty north, range fifty-nine west of the fifth principal meridian; thence west along the fifth standard parallel north to the Missouri River; thence up and along the east bank of said river to the south line of township one hundred and thirty north; thence east along said line to the northeast corner of township one hundred and twenty-nine north, range fifty-nine west; thence south to the southeast corner of township one hundred and twenty-nine north, range fifty-nine west; thence east along the seventh standard parallel north to the northwest corner of township one hundred and twenty-eight north, range fifty-nine west; thence south to the place of beginning, is constituted a new land district, the office of which shall be located at such place as shall be designated by the President of the United States.

New district described.

Office to be located by designation of the President.

(3.) All that part of the Territory of Dakota bounded as follows, to wit: Commencing at a point where the second standard parallel north of the fifth principal meridian intersects the eastern boundary of said Territory; thence west along said parallel to the southeast corner of township one hundred and nine north, range fifty-nine west; thence north to the northeast corner of township one hundred and twelve north, range fifty-nine west; thence west along the third standard parallel north to the eighth guide-meridian; thence north along said guide-meridian to the northwest corner of township one hundred and twenty-eight north, range fifty-nine west; thence west along the seventh standard parallel north to the southeast corner of township one hundred and twenty-nine north, range fifty-nine west; thence north to the southeast corner of township one hundred and thirty north, range fifty-nine west; thence east to the eastern boundary-line of the Territory of Dakota; thence southerly on said boundary-line to the place of beginning, shall constitute the limits of the Watertown land district.

Territory described to constitute the Watertown land district.

NEBRASKA.

Territory to
form the Minne-
kadusa land dis-
trict.

SEC. 493. (1.) All that portion of the State of Nebraska bounded and described as follows: Beginning where the second guide-meridian west intersects the northern boundary of the State of Nebraska; thence south along said guide-meridian to the southeast corner of township twenty-six north, range seventeen west; thence west to the southeast corner of township twenty-six north, range twenty-one west; thence south to the southeast corner of township twenty-five north, range twenty-one west; thence west to the western boundary of the State; thence north to the north line of the State; thence east along said line to the place of beginning, is constituted a new land-district, to be called the Minnekadusa land-district, the land-office for which shall be located at such place as the President may direct.

Location of of-
fice to be directed
by President.

Hitchcock land
district.

(2.) All that portion of the State of Nebraska bounded and described as follows: Beginning on the south boundary of the State of Nebraska, on the range-line between ranges twenty-five and twenty-six west; thence north along said range-line to the second standard parallel; thence west along said standard parallel to the western boundary of the State; thence south along said boundary to the south line of the State; thence along said south line east to the place of beginning, is constituted an additional land-district, to be called the Hitchcock land-district, the land-office for which shall be located at such place as the President may direct.

President to di-
rect location of
office.

President to
appoint register
and receiver for
each of said two
districts.

(3.) The President, by and with the advice and consent of the Senate, is authorized to appoint a register and a receiver for each of said land-districts, who shall discharge like and similar duties and receive the same amount of compensation as other officers discharging like duties in the other land-offices of said State.

CHAPTER TWENTY-SIX.

MINERAL LANDS.

[Original Vol., Chap. XIII, pp. 142-158.]

- | | |
|--|---|
| Sec. | Sec. |
| 494. Amending Revised Statutes, section 2326, as to suits in mining claim cases. | 495. Amending section 2326, Revised Statutes, as to verification of adverse claims, &c. |

SEC 494. If, in any action brought pursuant to section twenty-three hundred and twenty-six of the Revised Statutes, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land-office or be entitled to a patent for the ground in controversy until he shall have perfected his title

R. S. 2326 amended. Mining - claim suits.

Costs.

21 Stat. 505, Mar. 3, 1881, *Ante*, sec. 394.

SEC. 495. (1.) The adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly-authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

R. S. 2326 amended. Verification of adverse claims.

(2.) Applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory.

Oath by applicant for patent.

22 Stat. 49, April 26, 1882, *Ante*, secs. 394, 403.

CHAPTER TWENTY-SEVEN.

MISCELLANEOUS PROVISIONS.

[Original Vol., Chap. XXI, pp. 177-183.]

Sec.

496. Settlers on restored railroad lands permitted to purchase.

Settlers on railroad land restored to public domain may purchase.

SEC. 496. All persons who shall have settled and made valuable and permanent improvements upon any odd numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved, may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the pre-emption, homestead, or timber-culture acts of the United States, shall be permitted, at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal sub-divisions, at the price of two dollars and fifty cents per acre, and to receive patents therefor.

Condition.

21 Stat. 315, Jan. 13, 1881. Com. G. L. O. circular Jan. 28, 1881.
R. S. 2281. 10 Stat. 269.—16 *ib.* 279, sec. 2.

CHAPTER TWENTY-EIGHT.

SECRETARY OF THE INTERIOR.

[Original Vol., Chap. I, pp. 1-4.]

Sec.

497. Five thousand dollars appropriated to enable the Secretary to negotiate with the Sioux Indians. Any lands acquired from said Indians, only to be disposed of under the homestead laws.

SEC. 497. Five thousand dollars, or so much thereof as may be necessary, appropriated to enable the Secretary of the Interior to negotiate with the Sioux Indians for such modification of existing treaties and agreement with said Indians as may be deemed desirable by said Indians and the Secretary of the Interior; but any such agreement shall not take effect until ratified by Congress: *Provided, however,* That if any lands shall be acquired from said Indians by the United States, it shall be on the express condition that the United States shall only dispose of the same to actual settlers under the provisions of the homestead laws.

Appropriation.
Agreement to
be ratified by
Congress.

Lands acquir-
ed. How dis-
posed of.

22 Stat. 328, Aug. 7, 1882.

CHAPTER TWENTY-NINE.

SURVEYS AND SURVEYORS.

[Original Vol., Chap. III, pp. 15-28.]

Sec.

498. Certificates of deposit for surveys, only receivable for lands at the land office of the district in which the lands are subject to entry.

Receipt of certificates of deposit limited.

SEC. 498. No certificate issued for a deposit of money for the survey of lands under section twenty-four hundred and three of the Revised Statutes, and the act approved March third, eighteen hundred and seventy-nine, amendatory thereof, shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry, and not elsewhere; but this section shall not be held to impair, prejudice, or affect in any manner certificates issued or deposits and contracts made under the provisions of said act prior to the passage of this act.

22 Stat. 327, Aug. 7, 1882.—R. S. 2403.—12 Stat. 409, sec. 10.—16 *ib.* 581.—19 *ib.* 38.—20 *ib.* 352

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DIGEST
OF
LATE DECISIONS
RELATING TO
QUESTIONS ARISING UNDER THE LAND LAWS
OF THE
UNITED STATES,
IN CONTINUATION OF
THE "CITATION OF JUDICIAL AND EXECUTIVE DECISIONS CONTAINED
IN THE COMPILATION OF LAWS BY THE CODIFICATION COM-
MITTEE OF THE LATE PUBLIC LANDS COMMISSION."

Prepared under the direction of the COMMISSIONER OF THE GENERAL LAND OFFICE pursuant
to the Joint Resolution of Congress of August 7, 1882, to accompany the
volumes of Laws required by said resolution to be published.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1884.

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DIGEST OF DECISIONS.

[The abbreviations appearing in the references to the Department and General Land Office decisions are "Sec'y.," for Secretary of the Interior; "Com'r.," Commissioner of the General Land Office; "G. L. O.," General Land Office; "R. & R.," Register and Receiver; "R. P. M.," Receiver of Public Moneys; "C. L. O.," Copp's Land Owner; "C. M. L.," Copp's Mining Laws; "C. L. L.," Copp's Land Laws; "Rep'r," the Reporter; "W. L. Rep'r," Washington Law Reporter.

The capital letters in parentheses indicate the respective divisions of the General Land Office in which the cases were examined and where the decisions may be found. The same designations of subjects decided appear alike in several divisions—as "Entry," "Location," "Patent," "Survey," and many others. The proceedings, however, in the respective divisions are variant, and directed to different objects. To obviate confusion and facilitate reference, therefore, the decisions upon matters originating in and pertinent to each division are embodied, mainly, under the designation of the same; the several subjects being indicated by sub-heads with reference thereto under general heads.]

ABANDONMENT.

- See *Mines, &c.*, No. 1, *et seq.*; (relocation) No. 204; (survey) No. 218.
Pre-emption, No. 1, *et seq.*; (contract) No. 25.
Private land claims (Oregon donations), Nos. 54, 67, 69.
Public lands (homestead entries), No. 206; (relinquishment) No. 314.
Railroads, No. 1.
Water rights, No. 2.

ABSENCE.

- See *Pre-emption*, No. 5.

ACCEPTANCE.

- See *Private land claims*, No. 1.

ACCOUNTS.—DIVISION M.

Certificates of deposit:

1. Issued on account of surveys, not receivable in payment for coal, desert, Indian, mineral, or timber lands.
Com'r. (M.) to R. P. M., Redwood Falls, Minn., April 12, 1882.
Sec'y. Robt. Sproul, G. L. O. Report, 1877, p. 143.
2. Limited to use in land district in which the land is located for the survey of which the deposit was made.
Com'r. (M.) Circular, Aug. 16, 1882.
3. Issued for additional deposits under contracts prior to act of Aug. 7, 1882, not affected by restrictions of said act.
Com'r. (M.) Circular, Sept. 21, 1882.
4. Issued for survey of mineral lands not receivable in payment for public lands.
Com'r. (M.) C. C. Clements, Mar. 31, 1881. Circulars, April 1, 1879; Mar. 5, 1880; Feb. 26 and Mar. 18, 1881. Sec'y. Mar. 31, 1882.

Certificates of deposits—Continued.

5. Receivers directed not to receive certain certificates.
Com'r. (M.) Circulars, April 19 and Aug. 7, 1882.
6. Receivers advised of the issue of fraudulent certificates.
Com'r. (M.) Circular, May 12, 1882.
7. Directions for cancellation and transmittal of to G. L. O.
Com'r. (M.) Circular, June 2, 1881.

Change of entry:

8. Only provided for where an error in description has been made by the entryman, or the records are defective in not showing correct description.
Com'r. (M.) R. & R., Gainesville, Fla., Sept. 29, 1882.

Contingent expenses:

9. Expenditures in excess of appropriation, unauthorized and illegal.
Com'r. (M.) Hon. T. Ryan, Jan. 24, 1882.

Deposits for surveying public lands:

10. Regulations prescribed as to manner of making deposits, excess repayments, assignment of certificates, and R.'s & R.'s returns.
Com'r. (M.) Circular, Mar. 5, 1880.

Fees and commissions:

11. Of registers and receivers in Alabama, Arkansas, Dakota, Florida, Iowa, Kansas, Louisiana, Nebraska, Michigan, Minnesota, Mississippi, Missouri, and Wisconsin.
Com'r. (M.) Circular, Mar. 7, 1881.
12. Of registers and receivers in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.
Com'r. (M.) Circular, Mar. 7, 1881.
13. Fees in mineral applications.
Com'r. (M.) R. & R., Lake City, Colo., July 8, 1881.
14. No entry fees and commission to be collected on additional homestead entries under act of Mar. 3, 1879.
Com'r. (M.) R. & R., North Platte, Nebr., July 26, 1881.
15. In timber-culture entries.
Com'r. (M.) Mar. 9, 1882.

Indian reservations:

16. Receivers of public moneys to deposit gross proceeds from sales of.
First Comp. Treasury, July 2, 1881 (M.)
17. Permanent; is a territory of country, with definite boundaries, set apart, and its occupancy guaranteed by the Government for the use of the Indians, of which they cannot be deprived except by their own acts, and to which a fee-simple in them is not essential.
Sec'y. (M.) Oct. 20, 1882.
18. Title to—or *common Indian title*, is distinguished from the aboriginal right of occupancy recognized in the Indians as to the great mass of land originally occupied by them.

Receivers of public moneys :

19. Proper officer to receive. Registers should not receive public moneys, except a certain fee.
Com'r. (M.) Circular, May 24, 1882.
20. Receivers acting as disbursing agents. Directions as to rendering accounts.
Com'r. (M.) Circular, July 15, 1882.
21. Can only receive current funds of the United States in payment for public lands.
Com'r. (M.) R. P. M. Grand Island, Nebr., Oct. 24, 1882.

Registers and receivers :

22. Cannot charge fees for writing in making up record and decision and transcript thereof; nor in commission to take testimony and copy of interrogatories, where the evidence is taken before some other officer.
Com'r. (M.) to R. & R., North Platte, Nebr., July 18, 1882; to R. P. M., Lake City, Colo., May 6, 1882, 9 C. L. O. 35; G. L. O. Circulars, (M.) May 24, 1879, Jan. 27, 1881.
23. Duties of, in reducing testimony to writing and attending to correspondence of office.
Com'r. (M.) to R. & R., La Crosse, Wis., July 29, 1881; to R. P. M., Lake City, Colo., May 6, 1882, 9 C. L. O., 35.
24. May permit county clerks to employ suitable persons to make abstracts of the records of the land offices; but not to interfere with business of offices.
Com'r. (M.) R. P. M., Concordia, Kans., Feb. 23, 1882.

Repayment :

25. Claim for, upon alleged receiver's receipt, where record failed to show entry, and alleged payment not having been covered into Treasury, refused.
Com'r. (M.) Wisner & Draper, April 18, 1882.
26. Claimant for, who voluntarily abandoned right to complete entry, not entitled to.
Com'r. (M.) to John Carlaird, Jan. 20, 1882. Sec'y. Oct. 20, 1882.
27. Claimed on desert-land entry, not erroneously allowed, but purchasers in fault by failure to comply with the law, refused.
Com'r. (M.) to Curtis, Earle & Burdette, Dec. 5, 1881. Sec'y. Oct. 11, 1882.
28. Desert-land entries having been canceled for conflict, or as having been erroneously allowed, purchase money will be refunded.
Sec'y. Case of Jerome Madden *et al.*, Nov. 16, 1880, 7 C. L. O., 151.
29. Desert-land entry—where party voluntarily abandoned the land because he could not procure water to reclaim it, refused.
Com'r. (M.) Edw'd Leaventhal, April 26, 1881; Gonzales & Chaves, Dec. 5, 1881; Sec'y. Oct. 11, 1882.
30. Directed, where party had transferred his rights in a mineral entry subsequently to its cancellation.
Com'r. (M.) July 29, 1881. Sec'y. Aug. 3, 1881.

Repayment—Continued.

31. Entry allowed on proof of residence, which was held by the Dept. to be insufficient, and thereupon entry canceled as having been erroneously allowed, repayment refused.
Sec'y. Aug. 1, 1881, Mrs. McDonald, 9 C. L. O., 135.
32. Entry made on double minimum land, afterwards reduced in price by act of June 15, 1880; the \$1.25 per acre, paid in excess of the minimum price, directed to be refunded.
Com'r. (M.) Sept. 7 and Sept. 26, 1882. Sec'y. Sept. 27. 1882.
33. Entrymen, under act of July 5, 1876, failing to make payment, or perform other required conditions, forfeit all claim to right of reimbursement, &c.
Com'r. (M.) R. & R., Topeka, Kans., July 26, 1882.
34. For return of \$1.25 per acre in excess of minimum price, cash entry, refused, as the act of June 15, 1880, only affected lands that were subject to entry after its passage.
Com'r. (M.) May 3, 1881, Elizabeth Green; reversed and return ordered. Sec'y. June 16, 1881.
35. For return of fees and commissions on homestead entry refused; for failure to comply with law as to residence.
Com'r. (M.) Nov. 10, 1880, Wm. Goff. Sec'y, Mar. 19, 1881.
36. For refund on homestead entry refused; the claimant having been a minor at the time of entry.
Sec'y. June 14, 1881, John A. Hayes.
37. Land within the ten-mile limits of a railroad grant, and in those of a rejected private claim, was excepted from the grant to the railroad, and refund for excess over minimum price directed.
Com'r. (M.) Aug. 4, 1881, W. J. Johnston.
38. On Osage ceded lands, refused; claimant having failed to comply with the law as to residence, &c.
Com'r. (M.) Nov. 10, 1881, R. & R., Independence, Kans. Sec'y. July 6, 1882.
39. Refused for excess above minimum price; the act of May 15, 1856, to aid in the construction of railroads in Iowa, having raised the price of the land to \$2.50 per acre, before claimant's settlement.
Com'r. (M.) Jan. 22, 1881, J. Garaghty. Sec'y. July 16 and Sept. 19, 1881; 8 C. L. O., 79.
40. Refused, where at the date of filing, the entryman, (pre-emptor,) swore that he was 21 years of age, but was subsequently proved to have then been a minor; the entry being based upon false proof.
Com'r. (M.) Nov. 25, 1881, Bird and Lowe.
41. Upon entries made upon soldiers' and sailors' additional homesteads at Visalia, Cal., refund of fees, commissions, and excess of purchase money directed.
Sec'y. April 3, 1882, N. P. Chipman.
42. Will not be made where the land has not been erroneously sold by the United States, so that for any reason the sale cannot be confirmed.
Sec'y. Nov. 16, 1880, on appeal affirming Com'r., 7 C. L. O., 151.

Special agents :

43. Manner of rendering accounts by ; legal charges, &c.
Dept. circular (M.) July 29, 1881.
Treasury circular, No. 55, 1880.

State selections :

44. Final locations of, are made when the lists thereof have been examined by the R. & R. for approval and fees paid thereon.
Com'r. (M.) July 24, 1882, State Sur. Gen. of Cal.

ACCRETIONS

To lands bounded on a navigable river belong to the riparian owner, and cannot be selected as swamp or overflowed lands.
Minto v. Delancey, 7 Oregon R., 337.

See *Railroads*, No. 2; (land,) No. 22.
Timber Depredations, (accretions,) No. 1.

ACT OF JUNE 22, 1860.

See *Private land claims*, No. 2, *et seq.*

ACTS OF CONGRESS.

See *Construction*, No. 5, and *References*.

ADDITIONAL HOMESTEADS.

See *Accounts*, (repayments,) No. 41 (soldiers and sailors.)
Public lands, (relinquishment,) No. 316; (residence,) No. 336.

ADJOINING FARM ENTRIES.

See *Public lands*, No. 12, *et seq.*

ADMINISTRATOR.

See *Mines, &c.*, No. 6; (mineral entry,) No. 135.
Pre-emption, (entry,) No. 51.

ADVERSE CLAIM.

See *Pre-emption*, No. 7; (abandonment,) Nos. 3, 4; (settlement,) No. 142.
Mines, &c., No. 7, *et seq.*; (patent,) No. 163; (possession,) No. 135; (survey,) No. 224.

ADVERSE CLAIMANT.

See *Mines, &c.*, Nos. 25, 26.

ADVERSE POSSESSION.

See *Mexican and Spanish grants*, No. 2.

ADVERSE RIGHT.

See *Pre-emption*, (selection,) No. 136.
Private land claims, (Oregon donations,) No. 48.

AFFIDAVIT.

See *Mines, &c.* (citizenship,) No. 55; (affidavit, non-mineral,) No. 152.
Pre-emption, (construction,) No. 19; (pre-emption affidavit,) Nos. 99, 100.

AGENT.

The law of agency applies to officers of the Government. A receiver, in his official capacity, is an agent with powers defined by statute, and cannot bind the Government be

DIGEST OF DECISIONS.

yond the scope of his authority. Acts done outside thereof are void.

Sec'y. Dec. 4, 1880, H. O. Hodges, 7 O. L. O., 150.

See *Accounts*, (special agents,) No. 43.

Mines, &c. (application for patents,) No. 44; (coal lands,) No. 61.

Pre-emption, (declaratory statement,) No. 36.

Timber depredations, (railroads,) No. 19.

AGRICULTURAL CLAIM.

See *Mines, &c.*, (adverse claim,) No. 16; (patent,) No. 161.

AGRICULTURAL COLLEGE SCRIP.

The State of Kansas having, under act of July 2, 1862, selected double minimum instead of twice the quantity of minimum lands; the same, approved to it on that basis and acquiesced in for fifteen years, cannot now select additional lands.

Sec'y. May 13 and June 21, 1881; Atty. Gen. June 17, 1881.

ALABAMA.

See *Public lands*, (affidavit,) No. 24.

Railroads, (construction,) No. 5a; (jurisdiction,) No. 20a.

ALASKA.

See *Mines, &c.*, No. 27.

ALIEN.

See *Pre-emption*, No. 8.

ALIEN CORPORATION.

See *Mines, &c.* (patents,) Nos. 167, 170.

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See *Military bounty-land warrants*.

BRITISH SUBJECTS.

See *Private land claims*, No. 13a; (Oregon donations,) No. 50.

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Private land claims, (survey,) No. 128.
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See *Private land claims*, (interference,) No. 34.
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CEDED NEUTRAL LANDS.

Right of settlers to purchase under provisions of treaty of July 19, 1866, limited to lands actually improved.
Armstrong v. Mo. R., Ft. S. and G. R. R. Co., 5 Dillon, C. C., 491.
See *Indian lands*, No. 2.

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CERTIFICATES OF LOCATION.

See *Private land claims*, (surveyor general's scrip,) Nos. 122, 123.

CHARACTER OF LAND.

See *Mines, &c.*, No. 53; (hearings,) No. 93; (mill site,) Nos. 127, 130; (minerals,) No. 144.
Pre-emption, (filing,) No. 56.
Desert lands, No. 1.

CHAUVIN CLAIM.

See *Private land claims*, No. 14.

CHILDREN.

See *Private land claims*, (Oregon donations,) Nos. 58, 59, 60, 73, 80, 82.
Public lands, (minor children,) Nos. 254, 255.

CHICTAW SCRIP.

Assignment of, to be made before the judge of probate of the county where the assignor resides, attested by two witnesses personally acquainted with the assignor, &c., the judge to certify to the good character of the party and witnesses.

Com'r's. instructions, Nov. 20, 1880, 7 C. L. O., 142.

CHURCH SITE.

See *Public lands*, No. 59.

CITIZEN.

See *Mines, &c.* (mining claim,) No. 146.

CITIZENSHIP.

See *Mines, &c.*, No. 55.
Pre-emption, Nos. 12, 13, 14.

"CLAIM."

See *Pre-emption*, (entry,) No. 47.

CLAIMANT.

See *Mines, &c.*, No. 56; (lode or vein,) No. 115.
Pre-emption, (town lots,) No. 160.

COAL LANDS.

See *Mines, &c.*, No. 57, *et seq.*

COLOCATIONS.

See *Mines, &c.*, No. 64; (relocation,) No. 205.

COLORADO.

See *Private land claims*, (Oregon donations,) No. 41.

COLLUSION.

See *Pre-emption*, (filing,) No. 59.

COMMISSIONER GENERAL LAND OFFICE.

See *Land Dep't*, (Gen'l Land Office,) No. 10, *et seq.*
Military bounty-land warrants, No. 4.
Practice, (appeal,) No. 2.
Private land claims, (appeal,) No. 8.

COMMISSIONER OF PENSIONS.

See *Military bounty-land warrants*, Nos. 2, 3, 4, 8, 9.

COMMUTATION.

See *Private land claims*, (Oregon donations,) No. 61.
Public lands, (settlement,) No. 347.

COMPLETE TITLE.

See *Private land claims*, No. 15.

COMPROMISE.

See *Timber depredations*, (timber agent,) No. 28.

CONFIRMATION.

See *Private land claims*, (requisites to act of June 22, 1860,) No. 5; (complete title,) No. 15; (construction,) No. 26; (patent,) Nos. 86, 87.

CONFLICT.

See *Mines*, &c., (plats and field notes,) No. 180.

CONSTRUCTION.

1. Reservation by the United States in grant of lands in aid of a road, for free passage of its mails, construed to exempt from tolls all persons engaged in transporting the United States mails, whether contractors with the Government or their employés.

Schatts v. R. Co., 7 Oregon R., 250.

2. Tracts *cornering* upon each other are not *contiguous*; the latter word, as employed in the administration of the land laws, means that different subdivisions of land shall be in contact with each other, side by side.

Sec'y. Dec. 18, 1880; 7 C. L. O., 164.

3. Words are to be considered with the context, and understood in the sense in which they are employed.

Com'r. (E.) A. & P. R. R. Co., Nov. 28, 1881. Sec'y. July 8, 1881.

4. If at the time the right of a railroad under its grant attached, there was upon any tract of the land a settler who had such a claim, that, as between himself and the Government his title could thereafter be perfected, such tract is excepted from the grant.

Com'r. June 5, 1882, *Wood v. S. P. R. R. Co.*, and *Perkins v. same*; April 11, 1882, *Mitchell v. A. & P. R. R. Co.*; Jan. 12, 1882, *Whilsit v. same*; May 19, 1882, *Musick v. same*.

5. The act of Congress of July 15, 1870, requiring the N. P. R. R. Co. to pay cost of survey, &c., held unconstitutional.
County of Cass v. Morrison, 28 Minn. R., 257.

See *Indian reservations*.

Indian treaties, No. 1, *et seq.*

Mines, &c., No. 67, *et seq.*; (corporation,) No. 66.

Pre-emption, No. 15, *et seq.*

Private land claims, No. 16, *et seq.*; (New Mexico donations,) No. 44;
(Oregon donations,) No. 48.

Public lands, No. 72, *et seq.*; (statutes,) No. 355.

Railroads, No. 4, *et seq.*

Timber depredations, No. 2.

CONTEST.

See *Pre-emption*, Nos. 22, 23; (town lots,) No. 160.

Private land claims, (survey,) No. 133.

Public lands, No. 102, *et seq.*

CONTESTANT.

See *Pre-emption*, (laches,) No. 77; (preference right,) Nos. 106, 107.

Public lands, (relinquishment,) No. 318; (timber-culture entry,) Nos. 405, 406.

CONTESTED CASES.

See *Public lands*, No. 112, *et seq.*

"CONTIGUOUS TRACTS."

See *Construction*, No. 2.

CONTRACT.

See *Mines, &c.*, (surface lines,) No. 216; (survey,) Nos. 218, 219.

Pre-emption, Nos. 24, 25; (construction,) No. 20.

CONTRACTOR.

See *Timber depredations*, No. 3; (military post,) No. 14.

CO-OWNERS.

See *Mines, &c.*, No. 65; (patent,) No. 164.

Pre-emption, (residence,) No. 125.

CORPORATION.

See *Surveys*.

Mines, &c., No. 66.

Railroads, (trespasser,) No. 73.

COURTS.

See *Patents*, No. 3.

Private land claims, (survey) No. 136.

Public lands, (naturalization,) No. 253.

CULTIVATION.

See *Private land claims*, (Oregon donations,) No. 46.

CUSTOM.

See *Mines, &c.*, (mining rules,) No. 150.

DAMAGES.

See *Timber depredations*, Nos. 4, 5, 6.

DECISIONS.

See *Land Department*, Nos. 2, 5, 8; (General Land Office,) Nos. 10, 14, 17.
Private land claims, (construction,) No. 25; (practice, *ex parte*,) No. 115.

DECLARATORY STATEMENT.

See *Mines, &c.*, (coal lands,) No. 58.
Pre-emption, No. 28, *et seq.*; (amendment,) No. 9; (town lots,) No. 159.
Public lands, No. 351, *et seq.*; (requirements,) No. 329.
Railroads, Nos. 6, 6a.

DECREE.

See *Mines, &c.*, No. 74.
Pre-emption, (wife,) No. 172.
Private land claims, (construction,) No. 19; (jurisdiction,) No. 38;
 (survey,) No. 128.

DEED.

See *Land Department*, (General Land Office,) No. 13.
Pre-emption, (construction,) No. 21.

DEFAULT.

See *Pre-emption*, No. 40; (Osage trust and diminished reservelands,) No. 89.
Railroads, (practice,) No. 41.

DELIVERY.

See *Private land claims*, (patent,) No. 92; (Sup. Court scrip,) No. 118.

DEPOSITS.

See *Accounts*, (certificates of,) No. 1, *et seq.*; (for surveys of public lands,) No. 10.

DEPUTY SURVEYORS.

See *Mines, &c.*, Nos. 75, 76, 77; *Private land claims*, (fraud,) No. 28.

DESERTED WIFE.

See *Pre-emption*, (wife,) No. 173.
Public lands, Nos. 143, 144; (construction,) No. 99.

DESERT-LAND ENTRIES.

See *Accounts*, (repayment,) Nos. 27, 28, 29.
Public lands, Nos. 140, 141.

DESERT LANDS.

1. Instructions as to proper characteristics; requirements for entry, location, reclamation, &c., under act of March 3, 1877.
 Com'r. Circular, Sept. 3, 1880; approved by Department Sept. 11, 1880.
2. Irrigation—proof that crops have been raised on every portion of the land not necessary; but it must be shown that sufficient water has been brought upon the land to thoroughly irrigate it.
 Com'r. Sept. 3 and Sept. 8, 1880; 7 C. L. O., 105, 139.
3. Notice to claimants who have failed to make proof and payment as required by law; form of.
 Com'r. R. & R., Susanville, Cal., Aug. 28, 1880.
4. Reclamation—proof of, must be satisfactory. Evidence that cereals, &c., have been raised is satisfactory proof.
 Com'r. Sept. 8, 1880; 7 C. L. O., 105.

DEVISEE.

See *Public lands*, No. 145.

DISCOVERY.

See *Mines, &c.*, (lode or vein,) No. 111.

DISCOVERY SHAFT.

See *Mines, &c.*, No. 78.

DONATIONS.

See *Private land claims*, (New Mexico donations,) No. 41, *et seq.*; (Oregon donations,) No. 46, *et seq.*
Town sites, No. 1.

DROUGHT.

See *Public lands*, (final proof,) No. 175; (residence,) No. 330.

DOWER.

See *Public lands*, No. 146.

DUMPING GROUND.

See *Mines, &c.*, No. 79.

DURESS.

See *Pre-emption*, Nos. 41, 42, 43.

END LINES.

See *Mines, &c.*, No. 80; (lode or ledge,) No. 124.

ENTRY.

See *Accounts*, (change of entry,) No. 8.
Pre-emption, No. 44, *et seq.*; (county seat,) Nos. 26, 27.
Public lands, No. 149, *et seq.*; (private entry,) No. 297.
Railroads, No. 7, *et seq.*
Town site, No. 2.

ENTRYMAN.

See *Accounts*, (repayment,) No. 33.

EQUITY.

See *Public lands*, No. 165.

ESTOPPEL.

See *Pre-emption*, No. 52.
Private land claims, No. 27; (Oregon donations,) No. 75.

EVIDENCE.

See *Mines, &c.*, No. 81, *et seq.*; (location,) No. 107.
Patent, No. 9.
Pre-emption, Nos. 53, 54.

EXPENDITURES.

See *Accounts*, (contingent expenses,) No. 9.
Mines, &c., No. 85, *et seq.*; (improvements,) No. 94; (placer claim,) No. 177.

FAILURE.

See *Pre-emption*, (duress,) Nos. 41, 42, 43.

FEES AND COMMISSIONS.

- See *Accounts*, No. 11, *et seq.*; (registers and receivers,) No. 22.
Military bounty-land warrants, No. 6.
Private land claims, (Sup. Court scrip,) Nos. 120, 121.
Public lands, No. 173; (homestead entries,) No. 211; registers and receivers,) Nos. 307, 308; (statutes,) No. 355.

FILINGS.

- See *Railroads*, No. 11, *et seq.*
Pre-emption, No. 55, *et seq.*; (Osage trust and diminished reserve lands,) No. 91.

FINAL PROOF.

- See *Public lands*, No. 175, *et seq.*; (widow,) No. 420.

FIRES.

- See *Timber depredations*, No. 7.

FLORIDA.

- See *Private land claims*, (head rights,) No. 30; (surveys,) No. 130.

FORCIBLE INTRUSION.

- See *Public lands*, No. 183.

FOREIGNER.

- See *Public lands*, (homestead entries,) No. 221.

FOREIGN SUBJECTS.

- See *Pre-emption*, (citizenship,) No. 12.

FOREITURE.

- See *Pre-emption*, Nos. 64, 65; (Osage trust and diminished reserve lands,) No. 88; (proof and payment,) No. 113.
Public lands, (timber culture,) No. 366.
Railroads, Nos. 14, 15, 16.

FRAUD.

- See *Land Department*, (General Land Office,) No. 10.
Private land claims, No. 28; (Oregon donations,) No. 74.
Pre-emption, No. 66; (filing,) No. 60.

FRAUDULENT ENTRY.

- See *Public lands*, No. 171.

FRENCH GRANTS IN LOUISIANA.

- See *Private land claims*, No. 29.

GENERAL LAND OFFICE.

- See *Land Department*, No. 10, *et seq.*
Private land claims, (investigation,) No. 36.
Pre-emption, (fraud,) No. 66; (register and receiver,) No. 123; (wife,) No. 172.
Railroads, Nos. 17, 18.

GOOD FAITH.

- See *Pre-emption*, No. 67; (mistake,) No. 79; (residence,) Nos. 128, 130.

GRANTS.

1. Of alcalde in pueblo of San Francisco, made after conquest and before incorporation of city, are valid.

Scott v. Dyer, 54 Cal. R., 430.

2. To Railroad Company, certificate of Commissioner General Land Office, showing lands covered by, and approval of Secretary of the Interior, sufficient evidence that land passed by grant.

Johnson v. Thurston, 54 Iowa R., 144.

See *Private land claims*, (construction,) Nos. 20, 21, 22.

HEAD OF FAMILY.

See *Pre-emption*, (wife,) No. 171.

HEAD RIGHTS.

See *Private land claims*, No. 30.

HEARING.

See *Mines*, &c., No. 93.

Pre-emption, No. 63, *et seq.*

HEIRS.

See *Private land claims*, (Oregon donations,) Nos. 53, 59, 62, 73, 79.

Pre-emption, No. 71; (entry,) No. 51; (residence,) No. 131.

Public lands, No. 246; (relinquishment,) Nos. 315, 322.

HOLIDAY.

See *Public lands*, (affidavit,) No. 24.

HOMESTEAD.

See *Private land claims*, (Oregon donations,) No. 64.

Timber depredations, No. 11.

HOMESTEAD CASES.

See *Public lands*, (instructions,) No. 241.

HOMESTEAD CLAIM.

See *Private land claims*, (Oregon donations,) Nos. 48, 52.

HOMESTEAD CLAIMANT.

See *Public lands*, (homestead entry,) No. 205; (record,) 305.

Railroads, No. 19.

Timber depredations, (damages,) No. 4.

HOMESTEAD ENTRY.

See *Accounts*, (fees and commissions,) No. 14; (repayment,) Nos. 35, 36.

Mines, &c., (dumping ground,) No. 79; (mineral entry,) No. 140.

Pre-emption, No. 72; (residence,) No. 127.

Public lands, No. 205, *et seq.*

Railroads, (entry,) Nos. 8, 9, 10; (settler,) Nos. 62, 63, 64; (soldier,) Nos. 69, 70; (wife,) No. 74; (withdrawal,) No. 77.

HOMESTEADERS.

See *Timber depredations*, Nos. 8, 9, 10.

HOMESTEAD LAWS.

See *Public lands*, No. 231.

HOMESTEAD SETTLERS.

See *Public lands*, (unsurveyed,) No. 414.

HUSBAND AND WIFE.

See *Pre-emption*, (abandonment,) No. 1; (wife,) No. 174.
Private land claims, (Oregon donations,) Nos. 49, 57.

IDAHO.

See *Indian lands*, No. 3.

ILLINOIS.

See *Swamp lands*, Nos. 1, 2.

IMPROVEMENTS.

See *Mines, &c.*, No. 94; (expenditures,) No. 85; (survey,) No. 222.
Private land claims, (New Mexico donations,) No. 45.
Pre-emption, No. 73.

INDEMNITY.

See *Swamp lands*, Nos. 1, 2.

INDEMNITY SCRIP.

See *Private land claims*, Nos. 31, 32, 33.

INDIAN LANDS.

Reserved in Cherokee treaty:

1. Lying west of the ninety-sixth degree of longitude, are, by Art. 16 of the Cherokee treaty of 1866, reserved to the United States for the settlement thereon of tribes of friendly Indians. The possession and jurisdiction thereof, until thus disposed of, retained by the Cherokee nation, give it no right to settle its citizens upon them so long as the reserve to the United States subsists.

16 Opinions Att'y. Gen'ls., 470.

Ceded neutral lands:

2. In Kansas, settlers on, under treaty of July 19, 1866, could purchase only such portions as they had improved.

Armstrong v. Mo. R., Ft. S. & G. R. R. Co., 5 Dillon C. C., 491.

Territory of Idaho:

3. Is Indian country, but only so far as the rights of the persons and property of the Indian tribes are concerned, and to that extent within the sole jurisdiction of the United States.

Prekett v. U. S., 1 Idaho R., 523.

Non-intercourse act:

4. Of 1834, its purpose and effect was not to declare nor maintain that to be Indian territory which was not in fact in the occupation and under the control of the Indians.

Clark v. Bates, 1 Dak. R., 42.

Policy of the Government:

5. Has been to protect all citizens in the occupation of the ceded Indian country, and to secure cessions as fast as demanded by increase of our own population; and territory ceded has never afterward been treated as Indian country for any purpose.

Id.

Osage ceded lands:

See *Accounts*, (repayment,) No. 38.

Mines, &c. (location of mine,) No. 101.

Pre-emption, (construction,) No. 18; (default,) No. 40; (Osage trust and diminished reserve lands,) No. 86, *et seq.*

Public lands, (in Kansas,) No. 233.

Railroads, (Osage Inds.,) Nos. 36, 37.

INDIANS.

The Pueblo Indians of New Mexico are not within the provisions of the act of 1834, not being tribal, and are not subject to the jurisdiction of the Indian Department.

U. S. v. Lucero, 1 N. M. R., 422.

See *Pre-emption*, No. 75.

INDIAN SCRIP.

See *Public lands*, No. 137; (Kaw scrip,) No. 238; (Chippewa half-breed,) No. 239; (Choctaw,) 240.

INDIAN RESERVATIONS.

Under Indian treaties, are strictly construed against the grantee or beneficiary.

Goodfellow v. Muckey et al., 1 McCra., C. C., 238.

See *Accounts*, Nos. 16, 17, 18.

Mines, &c., (coal lands,) No. 60.

Public lands, Nos. 235, 236; (Miamis in Kansas,) Nos. 250, 251, 269; (Otoes and Missourias, in Kansas and Nebraska,) No. 270; (Ojibwas and Chippewas,) No. 271; (permanent, defined,) No. 273; (Sioux and Winnebagoes,) No. 350; (Utes in Colorado,) No. 415.

INDIAN TITLES.

1. Cherokee title is not a mere right of occupancy, but derived by grant from the United States—a qualified fee with only the right of possible reversion in the United States.

U. S. v. Reese, 5 Dillon, C. C., 405.

2. Of Indians, in absence of legislation by Congress to the contrary, is but a right of occupancy, the fee remaining in the United States.

Goodfellow v. Muckey et al., 1 McCra., C. C., 238.

See *Accounts*, (Indian reservations,) Nos. 17, 18.

Public lands, No. 236.

INDIAN TREATIES.

1. Cessions by treaty, proclaimed by the President, have always been considered and treated by the United States as an invitation by the Executive Department to all the people to come upon and possess the ceded country.

Clark et al. v. Bates et al., 1 Dak. R., 42.

2. Treaty with Nez Percé tribe of June 9, 1863, reserved for the sole use and occupancy of the tribe, the territory described therein. Settlers upon the same, and all others who go thereon to occupy land, are trespassers.

Langford v. Monteith, 1 Idaho R., 612.

3. With Osage Indians of June 2, 1825, lands reserved thereby, for said Indians and in their actual occupancy, did not pass by the act granting lands to Kansas in aid of railroad construction.

U. S. v. L., L. & G. R. R. Co., 1 McCra., C. C., 610; same *v. Mo., R. & Tex. R'way Co.*, *ib.*, 624.

4. Of November 15, 1861, between United States and Pottawatomie Indians, is not an exception to the general rule, and is not a grant *in presenti*.

Goodfellow *v.* Muckey *et al.*, 1 McCra., C. C., 238.

5. Stipulations by—recognized by State or Territorial Government in its act of organization, that lands in possession of an Indian tribe should not be part of such State or Territory, the new government has no jurisdiction over them.

Langford *v.* Monteith, 102 S. C., 145.

INSTRUCTIONS.

See *Public lands*, No. 241, *et seq.*

INTENTION.

See *Pre-emption*, No. 76; (occupation,) No. 83.

Private land claims, (construction,) No. 22.

INTERFERENCE.

See *Private land claims*, No. 34.

INTRUSION.

See *Pre-emption*, (possession,) No. 97.

INVESTIGATION.

See *Private land claims*, Nos. 35, 36, 37; (boundary,) No. 13; (practice,) No. 96.

IOWA.

Grant of land to State in 1846 for river improvement; claimed under railroad grant of 1856; confirmed to State by act of 1862; unsurveyed in 1846, and Indian title not extinguished till 1853; held to have been exempted from railroad grant and grant to State sustained.

D. S. C. R. R. Co. *v.* D. M. V. R. R. Co., 24 Iowa R., 80.

See *Railroads*, No. 20.

IRRIGATION.

See *Desert lands*, No. 2.

JUDGMENT OF COURT.

See *Mines*, &c., No. 95, (patent,) No. 172.

JURISDICTION.

See *Land Department*, Nos. 1, 3, 7, 9; (General Land Office,) No. 12.

Practice, Nos. 6, 7.

Pre-emption, (Board of equitable adjustment,) No. 11; (hearing,) No. 70.

Private land claims, Nos. 38, 39, 40; (boundary,) No. 9; (construction,) No. 17; (surveys,) No. 136.

KANSAS.

See *Agricultural college scrip*; *Ceded neutral lands*.

Public lands, (Miami Indian Reservation,) Nos. 250, 251.

Railroads, No. 21.

School lands, No. 6.

LACHES.

See *Pre-emption*, No. 77; (Osage trust and diminished reserve lands,) No. 86.

LAND.

See *Railroads*, No. 22.

LAND DEPARTMENT.

1. Appellate jurisdiction from, cannot be exercised by the courts. But where, by misconstruction of the law, or misrepresentation and fraud, a party has been deprived by its officers of his rights, the courts may refuse to give effect to its decisions.

Quimby v. Conlan, 104 S. C., 420.

2. Decisions of, conclusive—"all the questions of law and fact pertaining to the proceedings" being "especially confided" to it.

Mace v. Merrill, 56 Cal. R., 554.

3. Power of, over proceedings regarding title, ceases with the last official act necessary to transfer title to the claimant.

U. S. v. Schurz, 102 S. C., 378; 7 C. L. O., 153.

4. Rules by—for disposition of the public lands, including rules for making proof in pre-emption cases, not inconsistent with law, will not be interfered with by the courts.

Chapman v. Quinn, 56 Cal. R., 266.

5. The decision of the head of a Department is binding upon his successor, except in case where a relaxation of the rule is essential to the administration of justice; but the reason which permits a review by the Secretary does not apply to the decisions of the Bureau officers, they being subject to appeal, and if not appealed from, remain undisturbed.

Sec'y. April 19, 1882. *Eben Owen et al.*, 9 C. L. O., 111.

6. It is the duty of the Department to take notice of the records of the Department, and to determine matters in controversy in accordance therewith.

Sec'y. March 2, 1882. *Chauvin case*.

7. The Department has no power to review the decision of the court in the case of a survey *pending therein* at the passage of the act of July 1, 1864, on the question of jurisdiction; it should accept it as final.

Sec'y. Jan. 4, 1882, *Rancho Alisal*.

8. Decisions of Interior Department on questions appealed from the General Land Office are binding upon that office.

Act'g Sec'y. August 8, 1881. *Alcide Gindnay*, 8 C. L. O., 157.

9. The act of March 1, 1877, confers the jurisdiction and imposes the duty upon the Land Department to inquire into alleged settlement rights upon lands improperly certified to the State of California in lieu of school sections 16 and 36, and to dispose of the title to the party found to have the better right thereto.

Sec'y. Case of *Lawrence Ketchum*, Nov. 6, 1880, 7 C. L. O., 139.

General Land Office:

10. Decisions of, upon questions of fact arising in course of its business are conclusive, unless the result of fraud or mistake; but for errors in matters of law its decisions are subject to review by the courts.

Aiken v. Ferry, 6 Saw., C. C., 79.

General Land Office—Continued.

11. Where, in the absence of an appeal, the Commissioner reviewed the decision of the local officers, the Department, on appeal to it, will not review the decision, but dismiss the appeal and render the decision of the local officers final.

Sec'y. Sept. 27, 1882. *Brown v. Jefferson & Shaw.*

Sec'y. Nov. 17, 1882. *Jack v. Grove.*

12. The Commissioner has jurisdiction, by virtue of his supervisory authority, to examine the record of a case upon the decision of the local officers from which appeal has not been taken; and if the law has been misconstrued by them, to reverse their decision.

Com'r. (G.) Nov. 28, 1882. *Willardson v. Dusterburg*, 10 W. L. Rep't, 762.

13. Cannot, in a collateral proceeding, question the effect of a deed to transfer title.

Com'r. (G.) April 12, 1881. *Maxwell v. Ballard et al.*, 8 C. L. O., 73.

14. One Commissioner of the General Land Office has no authority to review a decision of his predecessor which has become final.

Sec'y. April 19, 1882. *Eben Owen et al.*, 9 C. L. O., 111.

15. The Commissioner has no power to approve a survey which in effect would reverse former decisions of the Department in the case, however well convinced that such decisions were erroneous.

Sec'y. Mar. 2, 1880. *Chauvin case.*

16. The claim having been confirmed by the Board duly authorized, survey made, accepted by party, and qualifiedly approved, and patent certificate issued, it was the duty of the Commissioner to issue patent, though a portion of the land had been patented to a conflicting claim.

Id.

17. Decisions of, relative to order for hearing on contest—appeal from, cannot be taken.

Sec'y. May 2, 1881. *Blair v. Ellsworth*, 9 C. L. O., 90.

See *Patent*, Nos. 3, 5.

Pre-emption, (wife,) No. 172.

Private land claims, (complete title,) No. 15; (jurisdiction,) No. 38; (Oregon donations,) Nos. 61, 64; (patent,) Nos. 89, 90; (publication of surveys,) No. 103; (selection,) Nos. 110, 111; (survey,) Nos. 124, 134.

Railroads, (filing,) No. 11; (General Land Office,) Nos. 17, 18.

Timber depredations, (railroads,) No. 23.

LATERAL LIMITS.

See *Railroads*, (Burlington and Mo. Riv. R. R. Co.,) No. 3.

LAW.

See *Public lands*, (ignorance of,) No. 232.

LEGAL REPRESENTATIVES.

See *Public lands*, No. 246.

LIEU LANDS.

See *Railroads*, Nos. 23, 24.

LOCAL LAWS.

See *Mines, &c.*, No. 98.

LOCATION.

See *Military bounty-land warrants*, No. 5.
Mines, &c., No. 99, *et seq.*; (lode,) Nos. 116, 117; (possession,) No. 183;
 (tunnel,) Nos. 238, 239.
Porterfield scrip, Nos. 1, 2.
Pre-emption, (Valentine scrip,) No. 164.
Private land claims, (fraud,) No. 28; (selection,) Nos. 110, 111.
Railroads, No. 25, *et seq.*
Sioux half-breed scrip, No. 1.
Timber depredations, (railroads,) Nos. 21, 24.

LOCATOR.

See *Mines, &c.*, No. 108.
Timber depredations, (mining claim,) No. 15.

LODE CLAIM.

See *Mines, &c.*, (placer claim,) No. 175.

LODE, LEDGE, ETC.

See *Patent*, No. 16.
Mines, &c., (location,) No. 102a, No. 109, *et seq.*; (placer claim,) No. 175.

LOUISIANA.

See *Private land claims*, (French grants in,) No. 29; (surveyor general's scrip,) No. 122.
Swamp lands, Nos. 3, 4.

MARRIED MAN.

See *Private land claims*, (Ore on donations,) No. 56.

MARRIED WOMAN.

See *Public lands*, Nos. 247, 248, 249; (minor children,) No. 254.

MESQUITE.

See *Timber depredations*, No. 12.

"MEXICAN GRANTEE."

See *Mexican and Spanish grants*, No. 4.
Private land claims, (construction,) No. 23.

MEXICAN AND SPANISH GRANTS.

1. All lands embraced in, before the same are confirmed and located, are reserved from sale or other disposal by the United States under the act of July 22, 1854, and are exempted from the operations of law granting right of way, &c., to railroads.
 Com'r. (P.) C. N. Gildersleeve, July 15, 1882.
2. By political chief of New Mexico in 1823, though not sufficient to pass title, for want of legal authority to make it, is admissible to found the basis of adverse possession against one who can show no better title.
 Pino v. Hatch, 1 N. M. R., 125.

3. By political chief of New Mexico, with the advice of the provincial deputation, reciting that it was made by legal authority, grant and possession having remained without objection by the Gov't for 25 years, must be presumed to be valid; at least against all but the National Gov't.

Id., Brocchus, J.

4. "Mexican grantee," as used in act of July 23, 1866, does not mean merely a person to whom a grant has been made, but one who in good faith has purchased land *supposed* to have been so granted, and improved and continued in possession thereof.

Bacon v. Davis, 56 Cal. R., 152; Horner v. Duggan, *id.*, 257.

5. Political chief of New Mexico, after the separation from Spain, had no power without express authority from the Mexican Government to grant away any of the public domain.

Pino v. Hatch, 1 N. M. R., 125.

6. Possession—after grant, under Mexican law, delivery of, was essential to complete investiture.

U. S. v. Castro, 5 Saw., C. C., 625.

7. Property rights acquired in New Mexico under, are fully protected by the treaty of cession, and cannot be disturbed.

Pino v. Hatch, 1 N. M. R., 125.

8. Under the Mexican law of 1825, were alienable before location.

Hunnicut v. Peyton, 102 S. C., 333.

See *Patent*, No. 20.

Mines, &c., No. 125; (reservation,) No. 210.

Pre-emption, No. 95.

Private land claims, (boundary,) No. 10; (reservation,) Nos. 107, 108, 109; (survey,) No. 127.

Railroads, No. 29.

Tide lands, No. 2.

Timber depredations, No. 13.

MICHIGAN.

See *Swamp lands*, Nos. 6, 7.

MILITARY BOUNTY-LAND WARRANTS.

1. Assignee of, cannot be considered an innocent purchaser when warrant is issued in the name of a person deceased without heirs, or of a fictitious person.

Sec'y. July 23, 1881. And. Anderson.

2. Caveat by Com'r of Pensions on ground of alleged fraud, unaccompanied by evidence, is of no effect to stay patenting.

Com'r. (B.) Sept. 2, 1881; J. A. Pennington, Sept. 12, 1881, I. H. Walker.

3. Com'r. of Pensions has no authority to cancel, in the hands of an innocent assignee.

Sec'y. July 13, 1881. And. Anderson.

Com'r. (B.) Oct. 23, 1882. Benhart Henn.

4. Com'r. of Pensions has no jurisdiction to determine who is an innocent purchaser or *bona fide* assignee, that being confided to the Com'r. of the General Land Office.

Sec'y. July 23, 1881. Wm. H. Barton.

5. Location by *innocent assignee* under duplicate warrant, issued by mistake, entitled to patent.
Com'r. (B.) Sept. 16, 1882. W. J. Carlyle.
6. No fee chargeable by General Land Office for certifications of assignment of.
Com'r. (D.) Nov. 11, 1881.
Sec'y. Nov. 20, 1881.
7. Patents issued under, and withheld, are subject, as to delivery, to the rule laid down in the McBride case.
Sec'y. July 23, 1881 (B.)
8. Withdrawal of, from General Land Office by Commissioner of Pensions, discontinued.
Sec'y. July 23, 1881. And. Anderson.
9. Withdrawn from General Land Office by Commissioner of Pensions, directed to be returned.

Id.

See *Patent*, No. 14.

Public lands, (Com'r's certificate,) No. 253.

MILITARY POST.

See *Timber depredations*, No. 14.

MILITARY RESERVATION.

See *Mines, &c.*, No. 126.

Private land claims, (construction,) No. 16; (Oregon donations,) No. 51.

MILL SITE.

See *Mines, &c.*, No. 127, *et seq.*; (location of mine,) No. 102; (non-mineral affidavit,) No. 152; (patent,) No. 169.

MINERAL ENTRY.

See *Mines, &c.*, No. 134, *et seq.*

Accounts, (repayment,) No. 30; (survey,) No. 225.

MINERAL LANDS.

See *Accounts*, (cert's of deposit,) No. 4.

Mines, &c., No. 141; (Alaska,) No. 27; (petroleum,) No. 174; (timber,) No. 234; (town site,) No. 236.

School lands, Nos. 1, 3.

Timber depredations, (Mesquite,) No. 12; (mining claims,) Nos. 16, 17.

MINERALS.

See *Mines, &c.*, Nos. 143, 144; (asphaltum,) No. 49; (coal lands,) No. 62; (gypsum,) No. 92; (lime, limestone,) Nos. 96, 97; (petroleum,) No. 174; (rock salt,) No. 212.

Railroads, No. 30.

MINERAL SPRINGS.

See *Mines, &c.*, No. 142.

MINES, MINING LAWS, RULES, TITLES, ETC.—DIVISION N.

Abandonment:

1. Facts as to alleged, after publication, must be determined by Land Department; findings of the court thereon, not conclusive upon it.

Sec'y. Oct. 8, 1881. Crampton and Johnson *v.* Baer.

Abandonment—Continued.

2. As to the question of, it is immaterial whether the work done be by part owners or holders of the legal or equitable title, so long as done in the interest of the claim. It is sufficient to save forfeiture for abandonment, and relocation cannot attach.

Sec'y. May 16, 1882. *Diamond Creek G. & Sil. M'g Co. v. Lloyd*, 9 C. L. O., 54.

3. A relocation is, of all the prior location not embraced therein. Com'r. (N.) Dec. 17, 1880. *C. D. Henry*.

4. Exclusion from an application for patent of a portion of the claim, which is included in a prior application, and upon which the second applicant has filed an adverse claim, does not amount to.

Com'r. (N.) Oct. 1, 1881. *Rebellion M'g Co.*, 8 C. L. O., 105.

5. Failure to perform the work in a mining claim required by law, amounts to an abandonment of the claim, which may thereupon be occupied by another.

Kramer v. Settler, 1 Idaho R., 485.

Acts of Congress:

Construction of sundry.

See *Mines, &c.*, No. 67, *et seq.*

Administrator:

6. Allowed to make entry for mining claim in Utah.

Sec'y. May 5, 1882. *Benton mine*.

Adverse claim:

7. When suit on is dismissed, party no longer entitled to maintain the position of an adverse claimant.

Sec'y. July 10, 1881. *Parker v. Thompson*.

8. When regularly presented and suit begun on, the Land Department should take no action that will affect rights of the parties under the judgment that may be rendered.

Sec'y. April 14, 1881. *Moffat v. Compromise Lode claimants*, 8 C. L. O., 54.

9. When the case is properly in court, record evidence in the Land Office, going to the merits thereof, cannot be considered to destroy *prima facie* sufficiency of.

Id.

10. That does not show "extent and boundaries" properly dismissed.

Sec'y. Nov. 12, 1881. *Stroever et al. v. Chamberlain*.

11. A tunnel location can be an.

Sec'y. Dec. 12, 1881. *Bodie Tunnel & M'g Co. v. Bechtel Cons. M'g Co. et al.*, 8 C. L. O., 173, and C. M. L., (2 ed.,) 318.

12. Matters incident to the right of possession not a matter of *protest*, but pertain to an.

Sec'y. June 8, 1882. *Seymour v. Wood et al.*

13. Must be filed to protect their rights by co-claimants who have not been properly notified that their share of assessment work is due; or who have paid the same. They waive their rights by failure to do so, and the law not only

Adverse claim—Continued.

assumes that no such claims exist, but if antecedent proceedings have been regular, all that might be set up in court has been adjudicated in favor of the applicant.

Sec'y. Aug. 7, 1882. Grampian Ledge case, 9 C. L. O., 113.

14. In absence of proof to the contrary it will be presumed that suit was begun in time on an.

Sec'y. Oct. 12, 1882. Temple *et al.* v. Doolittle *et al.*

15. Irregularities and informalities in the location and survey of, and the indefinite character of its location notice, are matters for the determination of the proper court.

Id.

16. An agricultural claim not the subject of; the issue is one of fact, as to the character of the land, to be determined by the Land Department.

Com'r. (N.) Dec. 1, 1880. R. and R., Lake City, Colo.

17. Unnecessary to file an,—based on a patented lode, as all area in conflict with a prior patent is excluded before issuance of a second patent. Adverse rights as between lode and placer claimants shall be adjudicated in the courts.

Acting Com'r. (N.) June 11, 1881. McCauley Placer.

18. Not allowed where no conflict of surface ground exists.

Com'r. (N.) Sept. 12, 1881. Eureka Mg. Co. v. Pioneer Cons. Co., 8 C. L. O., 106.

19. Waiver of an, by party making the first application, is a waiver of no right under the application.

Com'r. (N.) July 14, 1882. Iron Queen Lode v. Codfish Balls Lode.

20. Survey of, not required by the law or official regulations to be authorized by or receive the approval of the Surveyor General.

Com'r. (N.) May 10, 1881. Theo. Wagner.

21. Adverse claimant may make oath to, if absent from the district, before the clerk of any court of record or notary public of the U. S. or State or Territory where he may then be.

Act of Apl. 26, 1882, 9 C. L. O., 52.

22. May be filed by claimant's duly authorized agent or attorney of fact.

Id.

23. For a mining company, may be filed by the general superintendent, as an executive officer thereof, without specific authority to do so.

Com'r. (N.) July 12, 1882. Delia S. Lode v. American Lode.

24. When verified by an agent, he must distinctly swear he is such agent, and must make the affidavit of verification of the adverse claim within the land district where the claim is situated.

Com'r. (N.) May 9, 1882. Circular, 9 C. L. O., 52.

See *Mines, &c.*, (mill site,) No. 128; (survey,) No. 224; (waiver,) No. 241.

Adverse claimant:

25. When suit on adverse claim is dismissed, a party is no longer entitled to maintain position of.

Sec'y. Jan. 10, 1881. Parker v. Thompson.

Adverse claimant—Continued.

26. Should file certificate of commencement of suit within forty-five days from filing claim.

Com'r. (N.) Dec. 10, 1880. Circular, 9 C. L. O., 148.

See *Mines, &c.*, (adverse claims,) No. 21; (survey,) No. 224.

Agent:

See *Mines, &c.*, (adverse claims,) No. 22; (application for patent,) No. 41.

Agricultural claim:

See *Mines, &c.*, (adverse claims,) No. 16.

Annual labor:

28. The provision of law relating to, on lode claims, has no application to mill-site locations.

Com'r. (N.) July 25, 1882. Wm. A. Maguire.

29. In the absence of proof of no interruption of, between the date of publication and entry, when entry is deferred for several years after publication, the same will be called for before patent will issue.

Com'r. (N.) Feb. 13, 1882. Hill De Arnett.

30. Where location was made Oct., 1879, work done between that date and Jan., 1880, cannot be allowed as that "required to be done annually" by the act of Jan. 22, 1880.

Com'r. Nov. 10, 1880, 7 C. L. O., 130.

31. Where several persons locate 1,500 feet of mineral land in a body, but not in company, dividing the same into various claims, and holding in severalty, the sinking of a single shaft is not sufficient to perfect title to the whole. *Zeckendorf v. Hutchinson*, 1 N. M. R., 476.

See *Mines, &c.*, (expenditure,) No. 89.

Appeal:

32. Want of notice justifies dismissal of, on technical grounds.

Sec'y. Dec. 18, 1880. Little Nettie Lode.

33. A protestant, or party without interest in a mining case, not entitled to, but is entitled to certification of case to the Secretary.

Sec'y. June 8, 1881. Jacob Little Cons Mg. Co., 8 C. L. O., 53.

Application for patents:

34. Secretary's decision of Nov. 29, 1880, in this case, not a precedent as to receiving a second, during pendency of the first.

Sec'y. Mar. 3, 1881. Seaton Mg. Co. v. Davis.

35. Notice of, must be posted in local land office the full period of sixty days. Where during period of notice, or publication, the office is closed for a brief time, that time is not computed as part of the sixty days.

Sec'y. Apl. 11, 1882. Tilden *et al.* v. Intervenor Mg. Co., 9 C. L. O., 93.

36. Should be received in order of presentation, and not according to priority of approval of surveys.

Sec'y. May 11, 1882. Big Flat Gravel Mg. Co. v. Big Flat Gold Mg. Co. *et al.*, 9 C. L. O., 52.

Application for patents—Continued.

38. Presented without proof that plat and notice had been posted upon the claim, is void *ab initio*, and no bar to the reception of another application.

Acting Sec'y. Aug. 18, 1882. *De Long v. Hine*, 9 C. L. O., 114.

39. Should be refused on a defective survey, inadvertently approved, when R. and R. have been so notified by the surveyor general.

Com'r. (N.) Dec. 21, 1880. *Albert Johnson*.

40. May be made, excluding the portion involved in conflict by an adverse claim against a prior application; such exclusion does not amount to abandonment.

Com'r. (N.) Oct. 1, 1881. *Rebellion Mg. Co.*, 8 C. L. O., 105.

41. When made by agent where the claimant was a resident of and in the land district, the claimant was allowed to sign the same, after entry, *nunc pro tunc*; it not being misleading and no protest existing.

Com'r. (N.) June 19, 1882. *Robert O. Olds*.

42. Though void *ab initio*, it has the effect of appropriating the land until declared illegal.

Com'r. (N.) July 8, 1882. *John R. Tunnel Lode*.

43. May be withdrawn, but the fact should be made of record at the local office.

Acting Com'r. (N.) Oct. 23, 1882. *James Nesbitt*.

44. For a mining claim, may be made by an agent, where claimant is not a resident of or within the land district.

Act of Jan'y 22, 1880, 8 C. L. O., 71.

45. For placers, should state whether the land is all placer; and specifically as to lodes claimed.

Com'r. (N.) Circular, Sept. 22, 1882, 9 C. L. O., 130.

46. For placers; should include the report of the deputy surveyor as to proximity of centers of trade, &c.

Id.

47. For placers; by an association; cannot embrace more than 160 acres; and \$500 worth of work upon or for the benefit of each separate location must be shown.

Com'r. (N.) Circular of Dec. 9, 1882.

48. For a placer, by an individual, who becomes the purchaser and possessor of several separate claims of 20 acres each, may embrace any number of such claims contiguous to each other, not exceeding 160 acres in aggregate; but \$500 in improvements on each original location must be shown.

Id.

Asphaltum:

49. Land more valuable for, than for agriculture, is subject to entry under the mining laws.

Com'r. (N.) Feb. 7, 1882. *H. Poole*.

Assessment work:

See *Mines, &c.*, (adverse claim,) No. 13.

Burden of proof:

See *Mines, &c.*, (protestants,) No. 193.

California :

50. Land not known to contain minerals at the date of the act of July 23, 1866, confirming selections thereof by the State of California, as therein described, is not subject to investigation touching the alleged discovery of mineral thereafter.

Com'r. (N.) Jan. 4, 1882. Mary Polack, 8 C. L. O., 189.

Cancellation :

See *Mines, &c.*, (mineral entry,) Nos. 134, 137.

Certificate :

51. Of commencement of suit should be filed by adverse claimant within 45 days from the filing of the adverse claim.

Com'r. Dec. 10, 1880. Circular, 9 C. L. O., 148.

Certification :

52. Application for, under rule 83 of practice, should be so presented as to raise a reasonable presumption of error or oversight; or show the need of intervention to prevent undue haste, or, possibly, injury, to important and valuable interests.

Sec'y. Feb. 14, 1882. A. W. Rucker.

See *Mines, &c.*, (appeal,) No. 33.

Character of land :

53. Surveyor general's returns as to, will be sustained unless impeached by positive evidence.

Sec'y. Mch. 9, 1882. Conant *et al.* vs. Northcutt, 10 W. L. Rep'r, 189.

54. Instructions as to hearings to determine.

Com'r. Dec. 17, 1880. Circular, 9 C. L. O., 164.

See *Mines, &c.*, (hearing,) No. 93; (mill site,) No. 127.

Citizenship :

55. Affidavit of, may be made by mineral claimant, if residing beyond the limits of the district where the claim is situated, before the clerk of any court of record or notary public, &c.

Act of Apl. 26, 1882, 9 C. L. O., 52; Circular, May 9, 1882, 9 C. L. O., 52.

Claimant :

56. Is allowed to hold but one ledge by location; but the fact that other ledges may exist within his limits must first be established before a subsequent, can pass into those limits.

Atkinson v. Herndon, 1 Idaho R., 95.

Coal lands:

57. Price of, determined by distance from completed railroad at date of entry.

Sec'y. "Coal Lands," 8 C. L. O., 120, and Copp's M. L., (2 ed.,) 345.

58. Declaratory statements for, cannot be relinquished and canceled under the act of May 14, 1880.

Com'r. (N.) Jan'y 4, 1882. R. & R., Salt Lake City.

Coal lands—Continued.

59. "Fifteen miles from a completed railroad" (as used in R. S. 2347, pertaining to coal lands) conveys the idea of geographical distance.

Com'r. (N.) Apl. 3, 1882. Hans Carlston.

60. Under the act of July 28, 1882, relative to the ten-mile strip in the former limits of the Ute Reservation, therein described, a coal claimant may hold his land one year from the date when the same shall be open for entry, and to purchase within that year at \$20 per acre.

Com'r. (N.) Nov. 22, 1882. A. H. Morse.

61. Occupation of, by a company under an agreement of purchase from the claimant, whereby it was to receive an absolute estate of fee simple to said land after he had procured patent, reserving to him only an interest in the profits, &c., is not recognized as occupancy of principal through agent. The claimant is not in possession. But the company may show its right to purchase and prove up as assignee of claimant.

Sec'y. Dec. 11, 1882. Kerr *et al. v.* Carleton.

62. The act of July 2, 1864, gave a construction to the term "mines," which thenceforth attached to all known "coal beds or coal fields," in which no interest had before become vested, and withdrew such coal lands from the operation of all other acts of Congress.

U. S. *v.* Mullan *et al.*, Sawyer, C. J., Feb. 27, 1882, 9 C. L. O., 25.

63. After July 1, 1864, known coal lands were not subject to selection by the State in lieu of sections 16 and 36 for school purposes.

Id.

Colocators:

64. If one of several colocators of a mining claim cause notice to be recorded in the names of all, in the absence of proof to the contrary the formal consent of his colocators will be presumed.

Kramer *v.* Salter, 1 Idaho R., 485.

Co-owners:

65. As used in R. S. 2324, not applicable to the several members of a corporation.

Com'r. (N.) Feb. 3, 1882. Grecian Bend Lode.

See *Mines, &c.*, (patents,) No. 164.

Corporation:

66. Existing under laws of California, deemed a citizen, in the sense required by the act of May 10, 1872, (for the development of mining resources, &c.)

N. Noonday Mg. Co. *v.* Orient Mg. Co., 6 Saw., C. C., 299.

Construction:

67. Act of July 22, 1854, as to mining claims.

See *Mines, &c.*, (Mexican grants,) No. 125.

68. Of July 23, 1866, as to mineral lands.

See *Mines, &c.*, (California,) No. 50.

Construction—Continued.

69. Of Feb. 11, 1875, as to running tunnel.

See *Mines, &c.*, (tunnel,) No. 239.

70. Of Jan. 22, 1880.

Circular of Jan. 17, 1882, 8 C. L. O., 71.

71. Of April 26, 1882.

Circular of May 9, 1882, 9 C. L. O., 52.

72. Of July 28, 1882.

See *Mines, &c.*, (coal lands,) No. 60.

Of Revised Statutes:

73. Section 2320.

See *Mines, &c.*, (lode,) No. 117.

Section 2322.

9 C. L. O., 90.

Section 2324.

See *Mines, &c.*, (co-owners,) No. 65.

Section 2325.

"Nearest the claim"; amended by act of May 22, 1880; 9 C. L. O., 113 and 164.

See *Mines, &c.*, (expenditures,) No. 87.

Section 2326.

Amended April 26, 1882; 9 C. L. O., 52 and 55.

Section 2329.

See *Mines, &c.*, (placer claim,) No. 175.

Section 2332.

8 C. L. O., 132.

Section 2333.

Com'r. Jan. 13, 1882. Ala. Quartz Mine v. Omega Gravel Mine.

Section 2337.

9 C. L. O., 90.

Section 2347.

See *Mines, &c.*, (coal lands,) No. 59.

Section 2386.

9 C. L. O., 90.

Section 2392.

Id.

Decree of court:

74. In favor of adverse claimant, does not authorize issuance of patent, without publication and posting, for portion of his claim not in conflict or subject of the award.

Com'r. (N.) Dec. 10, 1880. D. J. McLaughlin.

Deputy surveyors:

75. Rule of practice indorsed, preventing them from acting as attorneys.

Sec'y. June 3, 1882. Rank *et al.*

76. The bond of, is given to protect the Government. Congress has provided no way for protection of mineral claimants by reason of their negligence.

Com'r. (N.) Aug. 4, 1881. Albert Johnson.

Deputy surveyors—Continued.

77. Shall, at expense of claimants, make full examination of all placer claims, and report as to proximity of centers of trade, residence, individual lodes and systems of lodes, and adaptability of claim to placer mining.

Circular (N.) Sept. 22, 1882, 9 C. L. O., 130.

Discovery shaft:

78. Taken as center of the claim, in absence of improvements.
Com'r. (N.) Jan. 12, 1881. Albert Johnson.

Dumping ground:

79. Right to make homestead entry is not impaired because the land subsequent to the date of original entry proves valuable for.
Com'r. (N.) Nov. 3, 1882. Atilio Lombardi.

End lines:

80. Each end of the lode must be bounded by the end lines of the claim.
Com'r. (N.) Jan. 12, 1881. Albert Johnson.
See *Mines*, &c., (surveyor general,) No. 229.

Evidence:

81. That a mill site, abutting a known lode, is mineral land, cannot be overcome by the usual non-mineral affidavit.
Sec'y. Dec. 23, 1880. Big Muddy mill site.
82. Papers in a case may be returned to the R. and R. to be produced in court for.
Sec'y. May 26, 1881. Moffat v. Compromise Lode claimants.
83. Presumption is in favor, after entry, of the recognition of the requisite antecedent facts, and the regularity of proceedings.
Sec'y. Aug. 4, 1882. Louisville Lode case, 9 C. L. O., 113.
84. In absence of proof to the contrary it will be presumed that suit on adverse claim was begun in time.
Sec'y. Oct. 12, 1882. Temple *et al.* v. Doolittle *et al.*
See *Mines*, &c., (character of land,) No. 53; (protestant,) No. 193.

Expenditures:

85. All improvements, as roadways, &c., used in connection with, and essential to the practical development of the mining claim, included in the estimate of.
Com'r. (N.) Dec. 24, 1880. Surveyor gen'l, 7 C. L. O., 179.
86. Where not made as required upon a mining claim located by several persons jointly, it may be relocated by any one of said locators, but he cannot credit himself with expenditures made under the original location.
Com'r. (N.) Mar. 15, 1881. Max Boehmer, 8 C. L. O., 3, and C. M. L., (2 ed.,) 300.
87. Certificate of the surveyor general that \$500 worth of labor has been expended, required by R. S. 2325 to be filed within the sixty days of publication, except in face of an adverse claim or protest alleging an adverse right, may be filed *nunc pro tunc*.
Acting Com'r. (N.) Feb. 11, 1881. C. Reed.
See *Mines*, &c., (placer claim,) No. 177.

Expenditures—Continued.

88. Incurred in work tending and necessary to the actual process of development of, should be regarded as labor on the claim, as conducting water thereon to work the property.

Com'r. (N.) Mar. 31, 1882. J. H. Tevis.

89. Required, annual; must be made on each "claim located." When claims are worked together the system adopted must tend, and be in pursuance of a plan, to develop *each* and *every* claim.

Com'r. (N.) July 19, 1882. Aug. Joerso.

90. Expenses incurred in traveling to, locating, and recording a mine cannot be taken into consideration in estimating annual expenditures.

Acting Com'r. (N.) Aug. 22, 1882. J. M. Crawford, 9 C. L. O., 130.

91. Must be done annually, by the calendar year, from Jan. 1 of each year.

Com'r. (N.) Jan. 17, 1881. Circular, 8 C. L. O., 71.

Gypsum :

92. Under all authorities is a mineral, and where the land is more valuable on account of it than for agriculture, it should be treated as coming under the mineral laws.

Sec'y. Oct. 8, 1881. W. H. Hooper, 8 C. L. O., 120; C. M. L., (2 ed.) 309.

Hearings :

93. To determine character of land, authorized to be held before a qualified officer nearest the land in dispute.

Com'r. (N.) Dec. 17, 1880. Circular, 9 C. L. O., 164.

Improvements :

94. As used in R. S. 2324, relate wholly to the expenditures for the actual development of the claim.

Com'r. (N.) Feb. 28, 1881. F. A. Barker.

See *Mines, &c.*, (expenditures,) No. 85.

Judgment of court :

95. Patent must follow. Land Dep't cannot look behind it.

Sec'y. July 21, 1882. Thos. Taylor, 9 C. L. O., 92.

Labor :

See *Mines, &c.*, (annual labor,) No. 28, *et seq.*; (placer claim,) No. 177.

Time :

96. Lands more valuable for, than for agriculture, can be sold only under the mining laws.

Com'r. (N.) Mar. 4, 1882. Josiah Gentry, 9 C. L. O., 5.

Limestone :

97. Lands in California containing, useless for agriculture, can only be purchased under the timber and stone act of June 3, 1878.

Com'r. Aug. 5, 1880. Elias Jacob, 7 C. L. O., 83.

Local laws :

98. Relating to mines, &c., are effective when not in conflict with laws of the United States.

Wolfley *et al.* v. Lebanon M'g Co., 4 Colo. R., 112.

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Location (of mine):

99. Is the act of appropriating a parcel of land containing precious metals in its soil or rock, according to certain established rules.
Smelting Co. v. Kemp, 104 S. C., 636.
100. Must be marked on the ground so that its boundaries can be readily traced.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299;
Myers et al. v. Spooner et al., 55 Cal. R., 257; *Gleason v. N. White M'g Co.*, 13 Nev. R., 443; *Southern Cross G. & S. M'g Co. v. Europa M'g Co.*, 15 *id.*, 383.
101. On Indian lands, prior to treaty bringing them to the condition of public lands, invalid.
Sec'y. Dec. 19, 1881. Town site of Deadwood, 8 C. L. O., 153;
 C. M. L., (2 ed.,) 324.
102. Of mill site does not operate as an appropriation thereof so as to reserve it from town-site location.
Sec'y. July 6, 1882. Rico Town-site case, 9 C. L. O., 90.
- 102a. Of a lode as placer, and *vice versa*, invalid.
Com'r. (N.) June 20, 1882. Chas. S. Wilson.
103. Notice of, calling for stone monuments at each corner of claim, and describing it as bounded by four other well-known claims, is sufficient notice.
Southern Cross G. & S. M'g Co. v. Europa M'g Co., 15 Nev. R., 383.
104. The notice required by statute is in fact a summons to adverse claimants.
Wolfley et al. v. Lebanon M'g Co., 4 Colo. R., 112.
105. Failure to make oath to notice when required by Territorial laws is, so far as it affects the record, a question for the courts.
Com'r. (N.) July 15, 1882. W. B. Mumbrue.
106. Land left in a 40-acre tract, in fractional lots, by an intersecting survey, may be embraced in one location. How described.
Com'r. (N.) July 28, 1882. Geo. B. Foote, 9 C. L. O., 113.
107. Certificate of a probate judge, under the statute as to location, is not conclusive evidence of compliance therewith, as he acts in a ministerial capacity.
Zeckendorf v. Hutchinson, 1 N. M. R., 476.
See Mines, §c., (lode or vein,) Nos. 111, 112, 116, 117, 123; (relocation,) No. 204; (town site,) No. 236.

Locator:

108. Of a quartz mine, who has performed all the acts required by law, except the labor, the year not having expired, one attempting to take possession against him is a trespasser.
Atkins v. Hendree, 1 Idaho R., 95.

Ledge:

See Mines, §c., (lode or vein,) Nos. 109, et seq.

Lode or vein:

109. A seam or fissure in the earth's crust, filled with quartz or other rock, carrying gold, silver, or other valuable mineral.

Lode or vein—Continued.

- N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299;
Stevens v. Williams, 1 McCra., C. C., 480.
110. A broad, metalliferous zone, though having in it true fissure veins plainly bounded, cannot be regarded as a single vein or lode.
Mt. Diablo M. & M. Co. v. Callison, 5 Saw., C. C., 439.
111. No rights in, can be acquired by location before discovery; but location is made valid by subsequent discovery by locator, before valid rights are acquired by others.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299.
112. Width of, where not specified in location of length, extends to 100 feet on each side of ledge as located.
Mt. Diablo M. & M. Co. v. Callison, 5 Saw., C. C., 439.
113. Width of, notice of location claiming "all the privileges granted by the laws of the district," is sufficient claim of 100 feet on each side allowed by the mining laws.
Id.
114. Top or apex of, is the highest point where it approaches nearest to the earth's surface.
Stevens v. Williams, 1 McCra., C. C., 480.
115. Where apex is within the surface boundaries, the claimant may follow the vein, in its downward dip, beyond his vertical side lines, &c.
Id., and Wolfley v. Lebanon M'g Co., 4 Colo. R., 112.
116. The right to follow the dip of, outside of the side lines of a claim, is one which attaches and is incident to the location thereof, and not to the patent itself. Patent simply changes possessory title into fee.
Com'r. (N.) Sept. 12, 1881. Eureka M'g Co. v. Pioneer Cons. M'g Co., 8 C. L. O., 106.
117. Unless metalliferous or valuable, because carrying the minerals named in R. S. 2320, the location should be made under R. S. 2329 as a placer, and controlled thereby.
Com'r. (N.) Nov. 23, 1882. Dodd's Placer.
118. Can be properly assumed by surveyor general from the returns of the survey and report of the deputy, to follow a certain direction.
Com'r. (N.) Oct. 3, 1881. Roswell Mason, 8 C. L. O., 104; C. M. L., (2 ed.,) 304.
119. The lode is the principal thing, and the surface ground incident thereto.
Wolfley v. Lebanon M'g Co., 4 Colo., 112.
120. In tunnel, right to is dependent upon discovery of the lode in the tunnel.
Corning Tunnel, &c., Co. v. Pell *et al.*, 4 Colo. R., 507.
121. Where discovered in a tunnel or drift along a vein previously located, and all the surface ground covering its apex is embraced in other locations across its strike, it may be located, how.
Com'r. (N.) Mar. 16, 1882. Franc D. Wood.
122. Width of, under act May 10, 1872, may be limited to 25 feet on each side.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299.

Lode or vein—Continued.

123. Right to, is controlled by location of the surface lines.
Wolfley v. Lebanon M'g Co., 4 Colo. R., 112; *Johnson v. Buell*,
id., 557.
124. Each end of, must be bounded by the end lines of the
 claim.
Com'r. (N.) Dec. 21, 1880. *Albert Johnson.*
See Mines, &c., (placer claim,) Nos. 175, 176.

Mexican or Spanish grant:

125. Act of July 22, 1854, prevents the recognition of a mining claim,
 on land within the limits of a claimed Mexican or Spanish
 grant, until the final action of Congress.
Com'r. (N.) Feb. 16, 1882. *D. P. Fairley.*

Military reservation:

126. Claimant under the mining laws cannot be divested of his pos-
 sessory right by including the land in a subsequent mili-
 tary reservation.
Att'y Gen'l. Oct. 21, 1881. *Fort Maginnis*, 8 C. L. O., 137.

Mill site:

127. Abutment of, upon the end of a known mineral-lode claim is
 evidence that the land is mineral, but not conclusive. It
 cannot, however, be overcome by the usual non-mineral
 affidavit.
Sec'y. Dec. 23, 1880. *Big Muddy Mill Site.*
128. Claim, partly or wholly embraced in an application for patent
 for a mine, can be protected only by an adverse claim filed
 in the usual manner and time.
Sec'y. May 16, 1882. *Warren Mill Site v. Copper Prince Mine*,
 9 C. L. O., 71.
129. The location of, upon the public land does not operate as an
 appropriation thereof so as to reserve it from town-site
 location.
Sec'y. July 6, 1882. *Rico Town-site case*, 9 C. L. O., 90.
130. Application for, has the same effect as to withdrawal and ap-
 propriation of the tract as that for a mining claim. Yet
 the character of the land can be inquired into at any stage
 of the proceedings.
Com'r. (N.) July 24, 1882. *De Soto Mine v. Wide West Mill
 Site.*
131. Patent for, not authorized to be issued except in connection
 with a vein or lode claim, or the claimant is owner of a
 quartz mill or reduction works.
Com'r. (N.) July 25, 1882. *Wm. A. Maguire.*
132. As a condition precedent to issuance of patent for, the appli-
 cant must show the ownership of a lode in connection there-
 with, or of a quartz mill or reduction works.
Com'r. (N.) July 19, 1882. *Aug. Joerso.*
133. Where application for, held in connection with a lode, is made
 after issuance of patent for the lode, it must conform to the
 requirements as when application is made by the owner of
 a quartz mill or reduction works.
Com'r. (N.) July 28, 1882. *H. W. Reed.*
See Mines, &c., (annual labor,) No. 28; (patent,) No. 169.

Mineral entry:

134. Regularly allowed, on dismissal of suit on adverse claim, properly canceled on reinstatement of suit per order of court.
Sec'y. April 30, 1881. Marshal Sil. M'g Co.
135. For mining claim in Utah may be made in the name of an administrator.
Sec'y. May 5, 1882. "Benton Mine."
136. The presumption is in favor of the recognition of the requisite antecedent facts and the regularity of proceedings after.
Sec'y. Aug. 4, 1882. Louisville Lode case, 9 C. L. O., 113.
137. Where allowed upon certificate that no suit was pending, and the judgment in applicant's favor was set aside and the clerk directed to recall said certificate, was properly canceled upon the filing of a certificate of the pendency of suit.
Sec'y. Nov. 16, 1882. Iola Lode.
138. Cannot stand under proceedings based on a false survey and publication.
Sec'y. April 11, 1882. Gustavus Hagland, 9 C. L. O., 55.
139. Certificate of, may issue to a grantee of the applicant without special instructions.
Acting Com'r. (N.) Aug. 21, 1882. Goodwin Lode *et al.*
140. Land embraced by homestead entry not subject to.
Com'r. (N.) May 25, 1882. Kane Placer.

Mineral lands:

141. May be embraced in a reservation of land made by the President for public uses.
Attorney Gen'l. Oct. 21, 1881. Fort Maginnis, 8 C. L. O., 137.
See *Mines, &c.*, (coal lands,) No. 62; (reservation,) No. 208.

Mineral springs:

142. Land containing the same, not of a saline character, are subject to sale under general laws and not under the acts relating to the sale of mineral lands.
Sec'y. Dec. 4, 1882. Pagosa Springs case.

Minerals:

143. Whatever is recognized as mineral by the standard authorities, where the same occurs in quantity and quality to render the land containing it more valuable on its account than for agricultural purposes, is mineral within the meaning of the mining laws. (Applied to gypsum and limestone.)
Sec'y. Oct. 8, 1881. W. H. Hooper, 8 C. L. O., 120; C. M. L., (2 ed.,) 309.
144. By "lands valuable for," in R. S. 2318, is meant lands which it will pay to mine by the usual modes of mining.
Sec'y. Dec. 19, 1881. Town site of Deadwood, C. L. O., 133; C. M. L., (2 ed.,) 324.

See *Mines, &c.*, (asphaltum, gypsum, lime, limestone, petroleum, rock salt.)

Mining claims:

145. Is the term used to designate a portion of public mineral land taken up and held under mining laws, local and statutory.
Mt. Diablo M'g Co. v. Callison, 5 Saw., C. C., 439.

Mining claims—Continued.

146. A citizen only can locate, under act of May 10, 1872.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299.
147. The occupant of public land as mining ground has no right to cut timber thereon except such as is necessary to the mining work.
U. S. v. Nelson, 5 Saw., C. C., 68.
148. If locator fail to perform the \$100 worth of work required by law in each year, the claim may be relocated by others; but if original locator resume work before such relocation, his claim becomes reinstated.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299; *Smelting Co. v. Kemp*, 104 S. C., 636; *Belk v. Meagher*, 3 Mon. R., 65.
149. Sale of, before perfecting title by performance, as required by R. S. 2324, can only be made valid by the purchaser by complying with the requirements of said section within a year from the original location.
Zeckendorf v. Hutchinson, 1 N. M. R., 476.

See *Mines*, &c., (abandonment,) No. 5; (administrator,) No. 6; (Mexican and Spanish grants,) No. 125; (tunnel,) No. 238.

Mining rules :

150. Do not acquire validity by mere enactment, but from the custom and acquiescence of miners.
N. Noonday M'g Co. v. Orient M'g Co., 6 Saw., C. C., 299.
151. Compliance with, is essential to validity of claim.
Myers et al. v. Spooner et al., 55 Cal. R., 257.

"NEAREST THE CLAIM."

See *Mines*, &c., (publication,) Nos. 195, 199.

NEWSPAPER.

See *Mines*, &c., (publication,) No. 193.

Non-mineral affidavit :

152. Not sufficient to overcome the presumption of the mineral character of a mill site, abutting a known lode claim.
 Sec'y. Dec. 3, 1880. Big Muddy Mill Site.

Notice :

153. Where omissions in, are not fraudulent, with intent to deceive, and no one is misled thereby, they are no objection to the issuance of patent.
 Sec'y. Aug. 4, 1882. Louisville Lode Co., 9 C. L. O., 113.
154. Not required to be given to rail r'd co. of an application for a mineral claim within the limits of its grant.
 Act'g Com'r. (N.) Oct. 25, 1882. *Johnson v. C. P. R. R. Co.*
155. Posting of, on a portion of the claim as located, but excluded from application of, a substantial compliance with law, if in a conspicuous place.
 Com'r. (N.) Nov. 17, 1882. Bloomington Lode.
156. Posted inside of a shaft-house, is posted in a conspicuous place.
 Sec'y. Aug. 4, 1882. Louisville Lode case, 9 C. L. O., 113.

See *Mines*, &c., (appeal,) No. 32; (publication,) Nos. 194, 195.

Patent:

157. Reservation of surface rights to town-site claimants should be inserted in a mineral patent.
Sec'y. Dec. 18, 1881, and Feb. 3, 1881. Little Nettie Lode.
158. Clauses of mutual reservation shall be inserted in town-site and mineral land patents.
Sec'y. Mar. 31, 1881, town site Eureka Springs *v.* Conant *et al.*, 9 C. L. O., 3; July 6, 1882, Rico Town-Site case, 9 C. L. O., 90.
159. Before issuance of, for lode claims *without* reservation in favor of town-site claimants, priority of occupation must be undisputed.
Sec'y. July 11, 1882. Vi'gin'a Cons. M'g Co., 9 C. L. O., 92.
160. Issued subsequent to the act of July 9, 1870, may embrace a placer claim consisting of more than 160 acres, and include as many adjoining locations as the claimant has purchased.
Smelting Co. *v.* Kemp, 104 S. C., 636.
161. Allowed to issue for a mining claim embracing land conveyed by an agricultural patent, to assignee of the latter, with clause of reservation of title conveyed by latter.
Sec'y. May 11, 1882. Wm. De Witt, 9 C. L. O., 34.
162. No objection to issuance of a mineral, where the omissions in the notices are not fraudulent and no one is misled thereby.
Sec'y. Aug. 4, 1882. Louisville Lode case, 9 C. L. O., 113.
163. Not authorized by decree of court in favor of the adverse claimant for the portion of his claim not in conflict nor subject of the award, without *publication* and *posting*.
Com'r. (N.) Dec. 10, 1880. D. J. McLaughlin.
164. Before issuance of, to one of several *co-owners* of undivided interests, the claim must be *segregated*, so as to show applicant's interest.
Com'r. (N.) Nov. 2, 1881. Centennial No. 2 Lode.
165. For a placer conveys not only the right to the use of the surface and to extract the mineral, but also a fee-simple title to the land described.
Com'r. (N.) June 27, 1882. Town site of Leadville, 9 C. L. O., 71.
166. Notwithstanding provisions of R. S., 2333, and the exclusion of known lodes in a *placer patent*, when a placer includes a known lode, not applied for, the legal title to all land within the boundaries of said placer claim passes from the Government.
Com'r. (N.) Jan. 13, 1882. Ala. Cons. Quartz Mine *v.* Omega Table Mt. Gravel Mine.
167. Before issuance of, an alien corporation cannot assert title to a mining claim, nor can patent issue to a trustee therefor.
Com'r. (N.) June 30, 1882. Dunderberg Lode.
168. Where the seal of the General Land Office is not affixed to, though signed and countersigned, title does not pass from the Government.
Com'r. (N.) Nov. 25, 1882. T. C. Prewitt.

Patent—Continued.

169. Will not issue for a mill site, on an application for a lode and mill site, pending controversy upon an adverse claim as to the lode; except where the same is held independent of possession of the lode.
Com'r. (N.) Feb. 16, 1881. L. J. Laws.
170. Revised Statutes do not authorize issuance of mining patent to a foreign corporation.
Com'r. (N.) Mar. 4, 1882. John N. Goodwin.
171. May issue for portion of claims.
Sec'y. April 11, 1882. Gustavus Hagland, 9 C. L. O., 55.
172. In a case litigated in court, must follow the judgment of the court, behind which the Land Dep't. cannot go.
Sec'y. July 21, 1882. Thos. Taylor, 9 C. L. O., 92.
See *Mines, &c.*, (application for patent,) No. 34, *et seq.*

Payment:

173. For a lode claim in a placer, must be according to the location and survey; it being optional with the locator whether he shall restrict the surface width to 50 feet.
Com'r. (N.) June 17, 1882. Duff Gordon Placer and Lode.

Petroleum:

174. Lands containing deposits of, are subject to disposal as placer lands.
Com'r. (N.) Mar. 31, 1882. A. A. Dewey, 9 C. L. O., 51.

Placer claim:

175. If no lode is known to exist within the boundary thereof at date of the application for patent therefor, then any portion of a subsequently discovered lode claim conflicting with the placer claim, must be excepted from entry of the lode claim and from patent for same; but if known, at said date, to exist, the lode claimant is entitled to the same, with 25 feet surface ground on each side thereof.
Com'r. (N.) July 27, 1881. Searl Placer.
176. Lodes discovered within the limits thereof, after application for patent, are no bar to issuance of patent as applied for.
Com'r. (N.) Nov. 21, 1881. J. P. Sears, 8 C. L. O., 152; C. M. L., (2 ed.,) 312.
177. Expenditures of \$500 on, not required, where an applicant bases his right to patent on the provision in R. S., 2332, relating to statute of limitations.

Id.

178. Between high and low tide water mark in a State, is not on *public domain*; hence not subject to disposition under U. S. mining laws.
Com'r. (N.) Mar. 4, 1882. Wm. E. Morris, 9 C. L. O., 5.
179. Distinctions between lode and.
Com'r. (N.) June 26, 1882. Chas. Wilson.
Com'r. (N.) Nov. 23, 1882. Dodd's Placer.

See *Mines, &c.*, (application for patent,) Nos. 45, 46, 47, 48; (patent,) Nos. 160, 165, 166.

Plats and field notes:

180. Of surveys of mining claims, required to disclose all conflicts with prior surveys, giving areas of all conflicts.
In future, surveyor general will use no coloring on plats.
Com'r. (N.) Nov. 16, 1882. Circular.

Possession:

181. A claimant upon a mining claim, properly located, developing the same and keeping up the boundary stakes, &c., is in actual possession of the whole claim.
N. Noonday M'g. Co. v. Orient M'g. Co., 6 Saw., C. C. 299; same v. same, *id.*, 503; Belk v. Meagher, 3 Mon. R., 65.
182. Of mining claim, in accordance with law governing same, amounts to a property capable of employment or transfer and protection in the courts.
Com'r. May 18, 1881. Sec'y. to Com'r., Sept. 30, 1882.
183. Actual, is not essential to validity of title obtained by valid location; and until location is terminated by abandonment or forfeiture, no property can be acquired by adverse entry.
Belk v. Meagher, 104 S. C., 279.
184. And development of a lode is not interfered with by the waiver of a portion, though containing the discovery shaft.
Sec'y. April 11, 1882. Gustavus Hagland, 9 C. L. O., 55.
185. Matters incident to the right of, pertain to an adverse claim, and not matter of protest.
Sec'y. June 8, 1882. Seymour v. Wood *et al.*
186. Of a mining claim may be protected in the courts. If trespass, as in cutting timber therefrom, be attempted, it is the duty of the locator, and not the Government, to protect his possession.
Sec'y. Sept. 30, 1882. Lewis Smith *et al.*, 9 C. L. O., 146.

Possessory right:

187. Under the mining laws, is, so long as maintained, an appropriation of the land.
Att'y General, Oct. 21, 1881. Fort Maginnis, 8 C. L. O., 137; C. M. L., (2 ed.,) 310.

Priority:

See *Mines, &c.*, (application for patent,) Nos. 36, 40; (patent,) No. 159; (survey,) No. 218; (town site,) No. 236.

Protest:

189. Sufficient allegations of non-compliance with law should be investigated.
Sec'y. Dec. 12, 1881. Bodie Tunnel and M'g Co. v. Bechtel Cons. M'g Co. *et al.*, 8 C. L. O., 173, and C. M. L., (2 ed.,) 318.
190. Matters incident to the right of possession pertain to an adverse claim, and not matter of.
Sec'y. June 8, 1882. Seymour v. Wood *et al.*
191. Need not be transmitted through the local officers.
Acting Com'r. (N.) June 3, 1881. North Pole Lode.

Protestant:

192. Not entitled to an appeal, but is to certification of the case to the Secretary.
See *Mines, &c.*, (appeal,) No. 33.

Protestant—Continued.

193. Burden of proof rests with. They should *show* location, title, and compliance with law, as regards both lode and mill site, as required in a court of justice to establish such claim.

Sec'y. July 6, 1882. Rico Town-Site case, 9 C. L. O., 90.

Posting:

See *Mines, &c.*, (notice,) Nos. 155, 156.

Publication:

194. An order for, in a weekly newspaper, not complied with by publication part of the time in a weekly and part in daily. Such a notice defective.

Sec'y. Jan. 18, 1882. Silver Cliff M'g Co. v. Muchlich *et al.*

195. Register may exercise judgment whether publication in the paper *nearest the claim* will effect the object of it; if not, may designate another.

Sec'y. March 22, 1882. Tomay v. Stewart.

196. No part of an entry can stand under proceedings based upon a false survey and.

Sec'y. April 11, 1882. Gustavus Hagland, 9 C. L. O., 55.

197. Where, during the period of, the local office is closed for a brief time, that time is not computed as a part of the sixty days required under the mining laws.

Sec'y. April 11, 1882. Tilden *et al.* v. Intervener M'g Co., 9 C. L. O., 93.

198. A "*reputable newspaper*" may be defined as one published for the dissemination of general news, and having sufficient patronage or business to warrant its continuance. By "*general circulation*" is meant a general circulation in the vicinity of the place of publication, and such as is essential to the maintenance of a reputable newspaper.

Com'r. (N.) Jan. 25, 1882. Silver Plume Coloradoan.

199. "*Nearest the claim*," as used in R. S. 2325, referring to publication of notice, means by the usual traveled routes, not by air-line measurement.

Com'r. (N.) May 11, 1882. La Salle Lode.

See *Mines, &c.*, (decree of court,) No. 74.

Receiver:

200. When directed by the Com'r, where register was suspended, to take charge of the office, his acts were those of an officer *de facto*, acting *colore officii*, and valid as to the public and third parties having an interest therein.

Acting Sec'y. Aug. 18, 1882. De Long v. Hine, 9 C. L. O., 114.

Record:

201. Of notice of claim; mistake by omitting one of the lines; claimant is not bound by the mistake of the recorder, the claim being plainly marked on the ground.

Myers *et al.* v. Spooner *et al.*, 55 Cal. R., 257.

Res judicata:

202. The plea of, is good if it appear that the question, though between different parties, was adjudicated, or could have been under the issues.

Sec'y. Dec. 14, 1882. Pagosa Springs case.

Relocation:

203. Is an abandonment of all the prior location not embraced therein.

Com'r. (N.) Dec. 17, 1880. C. D. Henry.

204. Mining claims, located by several persons jointly, upon which required expenditures are not made, may be *relocated* by any one of said locators; but he cannot credit himself with expenditures made under original location.

Com'r. (N.) Mar. 15, 1881. Max Boehmer, 8 C. L. O., 3 C. M. L., (2d ed.,) 300.

205. Placer claim subject to, on failure to make annual expenditures when required by local laws.

Com'r. (N.) Nov. 21, 1881. J. P. Sears, 8 C. L. O., 152; C. M. L., (2d ed.,) 312.

See *Mines, &c.*, (abandonment,) Nos. 2, 3; (location,) No. 101.

Repayment:

206. Of purchase money refused where claimant declines to furnish a new survey to which there is no obstacle.

Sec'y. Aug. 7, 1882. Geo. Crumpton.

Reservation:

207. Of title conveyed by agricultural patent allowed to be inserted in a mineral patent embracing same land and issued to assignee of the former.

Sec'y. May 11, 1882. Wm. De Witt, 9 C. L. O., 34.

208. The power of the President to make a, for public uses extends to any lands of the public domain, and capable of being exercised with respect to such lands, so long as they remain unappropriated.

Attorney General, Oct. 21, 1881. Fort Maginnis, 8 C. L. O., 137, and C. M. L., (2d ed.,) 310.

209. Claimant cannot be divested of a possessory right under the mining laws by including the land in a subsequent military.

Id.

210. Mineral lands within the limits of unconfirmed Spanish or Mexican grants in Arizona, reported to Congress for action, are *reserved* from sale and from exploration and location by mineral claimants.

Com'r. Oct. 6, 1881. J. A. Mandeville, 8 C. L. O., 107, and C. M. L., (2d ed.,) 308.

Resulting trust:

211. Law of, applied to an applicant who purchases a mining claim with the means of another.

Sec'y. May 16, 1882. Diamond Creek Gold and Silver M'g Co. v. Lloyd, 9 C. L. O., 54.

Revised Statutes:

Sundry sections of, construed.

See *Mines, &c.*, (construction,) No. 73.

Rock salt:

212. Deposits of, may be patented under the mining laws.

Com'r. (N.) July 20, 1882. J. R. Megarrigle, 9 C. L. O., 113.

Segregation :

See *Mines, &c.*, (patent,) No. 164.

Sioux Indian lands :

See *Mines, &c.*, (location,) No. 101.

Subpoena duces tecum :

213. Papers in a case may be returned to local officers for production in court by.

Sec'y. May 26, 1881. *Moffat v. Compromise Lode claimants.*

Surface ground :

214. Additional, cannot be granted for a lode already patented.

Com'r. (N.) Feb. 7, 1881. *Consol. Bobtail M'g Co., 9 C. L. O., 113.*

215. No adverse claim allowed where no conflict of.

Com'r. Sept. 12, 1881. *Eureka M'g Co. v. Pioneer Cons. M'g Co., 8 C. L. O., 106.*

See *Mines, &c.*, (placer claim,) No. 175.

Surface line :

216. Agreement by adjoining claimants, fixing surface boundary line between them, must be construed as extending such line downward, through the dips of the vein or lode, towards the earth's center.

Richmond M'g Co. v. Eureka M'g Co., 103 S. C., 839.

Survey :

217. Of a mining claim should be amended before allowance of entry where portion of a mining claim applied for is relinquished, so a correct description can be inserted in the patent.

Com'r. (N.) Oct. 12, 1881. *Molas Lode.*

218. Exclusion from a prior, whether by agreement or otherwise, is not conclusive presumption of abandonment, until failure to file adverse claim.

Com'r. (N.) June 20, 1882. *California Lode v. Lightning Striker.*

219. The intersecting of lines, and not a private agreement, determines the conflict of surveys.

220. Application for a mining survey must be declined where the location was not properly marked and recorded.

Com'r. (N.) Jan'y 26, 1882. *Philip Dephanger, 8 C. L. O., 189, and C. M. L., (2d ed.), 330.*

221. Bearings and distances must be given in a survey, from the respective survey corners to the location corners, and the same must be shown on the plat.

Id.

Land left in a tract, in separate parcels, by intersecting survey, how described as one location.

See *Mines, &c.*, (location,) No.

See *Mines, &c.*, (surveyor general,) Nos. 227, 228.

222. Of a mining claim should show location of all improvements of a municipal nature, as blocks, alleys, &c.

Sec'y. Dec. 18, 1880, and Feb. 3, 1881. *Little Nettie Lode.*

Survey—Continued.

223. Of a mining claim first applied for, shall have priority, in all its stages, in office of surveyor general, including delivery, over any other survey of same ground, or any portion thereof.

Sec'y. Jan. 8, 1881. Lizzie Bullock M'g claim, 7 C. L. O., 163; C. M. L., (2d ed.,) 299; circular of March 3, 1881, 9 C. L. O., 147.

224. Of adverse claim, when impossible to secure, the adverse claimant may show the nature, extent, and boundaries of his claim, as nearly as possible, from information in his reach; and present under oath his reasons for not following the office regulations; and submit whether, under the circumstances, the case is not properly presented.

Sec'y. Feb. 21, 1882. J. S. Wallace, 8 C. L. O., 188; C. M. L., (2d ed.,) 331.

225. Mineral entry cannot stand under proceedings based on a false.

Sec'y. Apl. 11, 1882. Gustavus Hagland, 9 C. L. O., 55.

Surveyor general:

226. Returns of, will be sustained, unless impeached by positive evidence.

Sec'y. Mar. 9, 1882. Conant *et al. v.* Northcutt, 10 W. L. Rep'r, 189.

227. Not required to approve survey prior to application for patent; and should notify R. and R. of a survey defective in showing conflict, inadvertently approved; and they should refuse to receive application thereon.

Com'r. (N.) Dec. 21, 1880. Albert Johnson.

228. Has no authority to recall and cancel his approval of a delivered survey of a mining claim. When an imperfect survey is inadvertently approved, claimant should be notified of the defect at earliest opportunity. If claimant refuses to return the same, his proceedings to obtain patent may be dismissed for illegality.

Com'r. (N.) July 11, 1881. Theo. Wagner.

229. Can properly assume from the returns of the survey and report of the deputy that the vein follows a certain direction. In case of objection thereto, approval of the survey may be withheld until the course is actually determined or admitted by claimant to lie in a probable direction. But he cannot require that the *end lines* shall make a right or any other angle with its general direction. And he has no authority, in case of an erroneous survey, to order an amendment or resurvey, without consulting the applicant's wishes.

Com'r. (N.) Oct. 3, 1881. Roswell Mason, 8 C. L. O., 104; C. M. L., (2d ed.,) 304.

See *Mines*, §c., (adverse claim,) No. 20.

Sutro tunnel:

230. The grant therefor includes lands west of the Comstock Lode, to the full extent of the withdrawal therefor, notwithstanding it has not been constructed west of said lode.

Com'r. (N.) May 28, 1881. Sutro Tunnel, 8 C. L. O., 54, and C. M. L., (2d ed.,) 302.

Sutro tunnel—Continued.

231. On claims within the withdrawal therefor, held and located at the date of the Sutro grant, compliance as to annual labor with local and State laws only required; not with United States laws.

Id.

232. A protest that an application for patent embraces a vein, the right of purchase to which has been conditionally granted to A. Sutro and his heirs and assigns, is sufficient to protect such right. Unnecessary to file an adverse claim. A hearing will be ordered thereon.

Com'r. (N.) Nov. 16, 1882. *Sutro Tunnel v. Consolidated Virginia Lode.*

233. If the tunnel has been constructed opposite the vein or lode applied for, so that it will not be cut or developed by the further extension of the tunnel, or any branch tunnel authorized by the act, then such vein or lode should no longer be reserved from sale. The question should be determined by hearing.

*Id.**Timber :*

234. On odd-numbered sections of public mineral lands granted to Central Pacific R. R. Co. subsequent patentee of such lands took no title to the timber.

Carr v. C. P. R. R. Co., 55 Cal. R., 192.

See *Mines*, §c., (possession,) No. 186.

Title :

235. To mines, &c., how acquired.
Belk v. Meagher, 3 Mon. R., 65.

Town site

236. May be located on mineral land. The question of the respective rights of town-site and mineral claimants, as well as of priority of occupation, and what is the necessary use of surface, by the mineral claimant, is left to the courts.

Sec'y. Rico Town Site case, July 6, 1882, 9 C. L. O., 90.

237. When patented, the land embraced therein does not belong to the United States, even if the minerals do, and no location of a mining claim can therefore be made.

Act'g Com'r. (N.) June 28, 1881. *G. R. Williams*, 9 C. L. O., 147.

See *Mines*, §c., (location,) No. 102; (mill site,) No. 129.

Tunnel :

238. Location of, under the U. S. mining laws, is a mining claim, and can be an adverse claim.

Sec'y. Dec. 12, 1881. *Bodie Tunnel M'g Co. v. Bechtel Cons. M'g Co. et al.*, 8 C. L. O., 173, and C. M. L., (2 ed.,) 318.

239. The requirement of location and notices of a proposed tunnel apply only where blind lodes are sought to be discovered, and not to tunnels, under the act of Feb. 11, 1875, run to develop lodes already discovered.

Com'r. (N.) May 4, 1881. *Henry M. Hoyt*, 8 C. L. O., 71; C. M. L., (2 ed.,) 301.

Tunnel—Continued.

240. The right to run a, through public land is given by implication ; no statute governing the use of public land for constructing a mining tunnel through it; such possession liable to forfeiture by non-user.

Com'r. (N.) Feb. 29, 1882. M. Hirschman.

See *Mines, &c.*, (lode or ledge,) Nos. 120, 121.

Ute country :

Ten mile strip in.

See *Mines, &c.*, (coal lands,) No. 60

Waiver :

241. Of an adverse claim, against a second application for a tract for which the adverse claimant had a pending application, is a waiver of no right under his application.

Com'r. (N.) Iron Queen Lode *v.* Codfish Balls Lode, July 14, 1882.

Water rights :

See *Mines, &c.*, (adverse claim,) No. 13 ; (possession,) No. 184.

For mining, &c.

See *Water rights*, No. 1.

Work :

See *Mines, &c.*, (annual labor,) No. 28, *et seq.*

MINING.

See *Water rights*, No. 1.

MINING CLAIMS.

See *Mines, &c.*, No. 45, *et seq.*; (Mexican and Spanish grants,) No. 125.
Timber depredations, Nos. 15, 16, 17.

MINING RULES.

See *Mines, &c.*, Nos. 150, 151.

MINNESOTA.

See *Public lands*, No. 252.

MINORS.

See *Pre-emption*, (citizenship,) No. 13.
Public lands, (minor children,) Nos. 254, 255.

MISCONDUCT.

See *Pre-emption*, (neglect,) No. 78.

MISSISSIPPI.

See *Railroads*, (construction,) No. 4.

MISTAKE.

See *Mines, &c.*, (record,) No. 201.
Patent, Nos. 11, 12.
Pre-emption, No. 79.
Private land claims, (investigation,) No. 37.

MORTGAGE.

See *Pre-emption*, (construction,) No. 20.

DIGEST OF DECISIONS.

NAME.

See *Public lands*, (error,) No. 166.

NATURALIZATION.

See *Pre-emption*, (Indians,) No. 75.

Public lands, Nos. 257, 258.

Railroads, (pre-emption claimant,) No. 45.

NEBRASKA.

See *Public lands*, (Otoe and Missouri Ind. Res.,) No. 270.

NEGLECT.

See *Private land claims*, (estoppel,) No. 27.

NEW MEXICO.

See *Indians*, (Pueblo Indians.)

Private land claims, (Pueblo Indians,) Nos. 101, 102.

NEW MEXICO DONATIONS.

See *Private land claims*, No. 41, *et seq.*

NEWSPAPERS.

See *Mines*, *fcc.*, (publication,) No. 198.

Public lands, Nos. 259, 260.

NON-INTERCOURSE LAW.

See *Indian lands*, No. 4.

NOTICE.

See *Desert lands*, (to make proof and payments,) No. 3.

Mines, *fcc.*, No. 153, *et seq.*; (application for patent,) No. 35; (location,) No. 103.

Pre-emption, No. 80; (entry,) No. 44; (hearing,) No. 69; (Osage l. and D. R. lands,) No. 91.

Public lands, No. 261, *et seq.*; (homestead entry,) No. 220.

NOTIFICATION.

See *Private land claims*, (New Mexico donations,) No. 42; (Oregon donations,) Nos. 63, 65, 67, 68.

OATH.

See *Mines*, *fcc.*, (adverse claim,) No. 24.

OCCUPANCY.

See *Indian titles*, Nos. 1, 2.

Private land claims, (Oregon donations,) No. 77.

OCCUPANT.

See *Pre-emption*, Nos. 81, 82.

OCCUPATION.

See *Mines*, *fcc.*, (coal lands,) No. 61.

Pre-emption, Nos. 83, 84, 85.

Railroads, No. 31.

OFFERED LANDS.

See *Pre-emption*, (private entry,) No. 111; (Southern States,) Nos. 147, 148.

Railroads, No. 32.

OREGON.

See *Swamp lands*, No. 5.

OREGON DONATIONS.

See *Private land claims*, No. 46, *et seq.*; (British subjects,) No. 13a.
Railroads, No. 33.

ORPHANS.

See *Private land claims*, (Oregon donations,) Nos. 70, 71, 72, 85.
Public lands, (minor children,) Nos. 254, 255.

OSAGE CEDED LANDS.

See *Accounts*, (repayment,) No. 38.
Railroads, Nos. 34, 35.
School lands, No. 6.

PARTIES.

See *Private land claims*, (practice,) No. 100.

PATENTS.

1. Contestant of the right of another to, must show some right in the premises in himself.
Aiken v. Terry, 6 Saw., C. C., 79.
 2. Delivery of canceled, under the McBride decision, directions for.
Com'r. and Sec'y. Feb. 28, 1881, 8 C. L. O., 10.
 3. Courts will not restrain issue of, by Land Department.
Leitensdorfer v. Craig et al., 5 Dillon, C. C., 419.
 4. Equitable rights under pre-emption law, maintainable against, when obtained by false testimony and imposition, or by misconstruction by patenting authority.
Chapman v. Quinn, 56 Cal. R., 266.
 5. Only deliverable by Land Dep't to party legally entitled to receive it.
Com'r. Mar. 20, 1882.
 6. Issued on survey not approved, under R. S. 2447, is void.
Dalles City v. Missionary Society M. E. Church et al., 6 Saw., C. C., 126.
 7. Issued without authority; United States may maintain bill in equity to set aside.
U. S. v. Leav., Law. & Gal. R. R. Co., 1 McCra., C. C., 610.
 8. Issued upon due authority, cannot be impeached collaterally.
Smelting Co. v. Kemp, 104 S. C., 636.
 9. Issued by the United States on confirmed Mexican claim, is in the nature of a quitclaim, and, as against the United States, is evidence that the validity of the claim has been established.
Adam v. Norris, 103 S. C., 591.
 10. Is conclusive only between the parties.
Id.
 11. Issued on mistaken views or corrupt motives, cannot be attacked by aggrieved party in action at law. He must resort to equity.
Smelting Co. v. Kemp, 104 S. C., 636.
 12. Issued on mistaken judgment by land officer, is not a nullity, and cannot be attacked in ejectment.
O'Connor v. Frasher, 56 Cal. R., 499.
- H. Mis. 45, pt. 1—4

Patents—Continued.

13. Issued on fraudulent assignment; under the decision in the McBride case, must be delivered to patentee.
Sec'y. July 23, 1881. An. Anderson *et al.*, 8 C. L. O., 95.
14. Issued on two bounty-land warrants to same person; both must be satisfied.
Com'r. July 26, 1882. W. J. Carlyle, 9 C. L. O., 137.
15. Improperly issued, must be attacked in a proper judicial proceeding against the person who has procured its issue.
Leitensdorfer v. Craig *et al.*, 5 Dillon, C. C., 419.
16. Lodes known to exist in placer limits, for which patent is not sought in the placer application, are excepted from the placer patent; on regular proceedings and proof may be patented as if no patent had issued for the placer claim.
Com'r. Sept. 18, 1880, 7 C. L. O., 100.
17. Should not issue to assignees except when they are expressly authorized to take, in their own names, by statute.
Com'r. July 27, 1880; 7 C. L. O., 85.
18. Title by, from United States is title by record, and delivery of, is not necessary.
U. S. v. Schurz, 102 S. C., 378; 7 C. L. O., 153.
19. When regularly executed and recorded, the patentee is entitled to the possession.
Id.
20. When founded upon a superior Mexican grant, the rights of the patentee are not concluded by a prior survey and patent to other claimants.
Adam v. Norris, 103 S. C., 591.
21. Under wrongly issued, the patentee is trustee for the party entitled, when.
Aiken v. Terry, 6 Saw., C. C., 79.

See *Land Department*, (General Land Office,) No. 16.

Military bounty-land warrants, No. 7.

Mines, &c., No. 157, *et seq.*; (application for,) No. 34, *et seq.*; (mill site,) Nos. 131, 132, 133.

Pre-emption, (heirs,) No. 71; (pre-emption right,) No. 104.

Private land claims, No. 86, *et seq.*; (Oregon donations,) Nos. 49, 73, 74.

Public lands, No. 272, *et seq.*

Railroads, No. 38, *et seq.*; (suit,) No. 71.

Sioux half breed scrip, No. 2.

PAYMENT.

See *Mines, &c.*, No. 173.

Private land claims, (for surveys,) Nos. 93, 94; (Supreme Court scrip,) No. 117.

PERJURY.

See *Public lands*, No. 277.

PERSONAL RIGHT.

See *Public lands*, No. 279.

PLACER.

See *Mines, &c.*, (location,) No. 102a; (application for patent,) Nos. 45, 46, 47, 48; (patent,) No. 166.

PLACER CLAIM.

See *Mines, &c.*, No. 175 *et seq.*; (relocation,) No. 205.

PLANTING.

See *Public lands*, (timber culture entries,) Nos. 387, 389.

POLICY OF GOVERNMENT.

See *Indian lands*, No. 5.

PORTERFIELD SCRIP.

1. May be located upon offered or unoffered land, and upon land within the limits of an incorporated town.

Sec'y. Oct. 26, 1881, 8 C. L. O., 143.

2. Is locateable upon any surveyed land of the United States, not mineral and not *legally* appropriated. A mere *de facto* appropriation does not run against the United States; nor preclude the location of said scrip, notwithstanding the equities of an adverse claim.

Id.

POSSESSION.

See *Patent*, No. 19.

Mexican and Spanish grants, No. 6.

Mines, &c., No. 181, *et seq.*; (tunnel,) No. 240.

Pre-emption, Nos. 95 *et seq.*; (occupant,) No. 82.

Public lands, Nos. 280, 281, 282.

POSSESSORY RIGHT.

See *Mines, &c.*, No. 187; (military reservation,) No. 126; (reservation,) No. 209.

Pre-emption, No. 98.

PRACTICE.

Appeal:

1. From decisions of the local officers must be filed within the time required by the rules; or, to be entertained, if not so filed, must set forth good reasons for the delay.

Acting Sec'y. Aug. 7, 1880, 7 C. L. O., 99.

2. From Com'r's decision, cannot restore rights lost by failure to appeal from decision of local office.

Acting Sec'y. Nov. 9, 1880. *Clark v. Carter*, C. L. O., 130.

None lies from Board of Equitable Adjudication.

See *Pre-emption*, (Board of Equitable Adjudication.)

Dismissal of appeal:

3. From decision of R. & R. for reason that notice was not served on opposite party, is erroneous. The rules relating to appeals from Com'r to Sec'y do not apply to appeals from R. & R. *Hirst v. Dickson* overruled.

Sec'y. Nov. 17, 1882. *Lynch v. Merrifield*.

Failure to appeal:

4. From decision of local office, it becomes final as to facts; and will not be disturbed except where fraud or gross irregularity is suggested on the face of the papers; or the decision is contrary to existing laws or regulations; or in case of disagreeing decisions by local officers.

Act'g. Sec'y. Nov. 9, 1880. *Clark v. Carter*, 7 C. L. O., 130.

Sec'y Sept. 29, 1882. *Brown v. Jefferson and Shaw*.

Failure to appeal—Continued.

5. From decision of R. & R. is a waiver of any right the party may have had.

Sec'y. Sept. 29, 1882. *Brown v. Jefferson and Shaw.*

Jurisdiction :

6. Local land officers have, to order a hearing as a new case, on matter occurring after a formal hearing, no entry having been allowed.

Com'r. Jan. 20, 1881. *Zachary v. Westbrook*, 7 C. L. O., 178.

7. The question of, should be raised by objections, before a decision is made upon the merits.

Id.

Notice of appeal :

8. From decision of R. and R. can only be given by publication when the residence of the party to be served is unknown ; which fact must be shown by affidavit. Appearance to protest is not a waiver of the laches.

Sec'y. Jan. 13, 1881. *Gulseth v. Samson*, 7 C. L. O., 163.

9. From decision of local officers, not required to be served on the opposing party.

Sec'y. Nov. 17, 1882. *Lynch v. Merrifield.*

Pre-emption affidavit :

See *Pre-emption*, (pre-emption aff't.,) No. 99, *et seq.*

Rules :

10. Of practice of the Gen'l Land Office, approved by the Dep't, are intended for observance ; and it is beyond the power of the local officers to modify or ignore them, but is their duty to enforce them.

Id.

11. Rule 83 applies only where the matter submitted for revision raises the presumption that there has been such an error as to convince the Dep't that a proper administration of the public business requires its intervention.

Sec'y. Feb. 14, 1882. *Wright v. St. Bernard M'g. Co.*, 9 C. L. O., 9.

Time for appeal :

12. When notice of decision is given, both to counsel and to the party, through the local office, the time should be reckoned from date of notice to the party himself.

Com'r. (G.) Oct. 17, 1881. *Roach v. Myers et al.*

See *Mines, &c.*, (subpœna duces tecum,) No. 213.

Pre-emption, (evidence,) Nos. 53, 54 ; (hearing,) No. 58, *et seq.* ; (review,) No. 133 ; (waiver,) Nos. 165, 168, 169, 170.

Private land claims, No. 95, *et seq.*, (public lands,) No. 283, *et seq.* ; (rules of,) Nos. 341, 342, 343 ; (notice,) No. 261, *et seq.* ; (review,) No. 340.

Railroads, No. 41.

PRE-EMPTION.—DIVISION G.**Abandonment:**

1. Of tract claimed by husband, during coverture, is abandonment by the wife.
Sec'y. Feb. 21, 1882. (G.) *Larsen v. Pechierer*, 9 C. L. O., 97.
2. Of land until determination of contest, with a preservation of rights *ad interim*, cannot be recognized.
Sec'y. July 13, 1882. *Titus v. Bull*, 9 C. L. O., 117.
3. A pre-emptor who relinquishes his rights by failure of constant assertion thereof on the land, cannot resume them at pleasure, in the presence of an adverse claim.

Id.

4. In the absence of an adverse claim, pre-emptor may, after temporary abandonment, resume his residence upon the land; and upon showing good faith, in compliance with law, make entry.

Com'r. (G.) Aug. 12, 1881. *Milan v. Favrow*, 8 G. L. O., 93.

See *Pre-emption*, (filing,) No. 58.

Absence:

5. If a party has filed notice of, under act of June 4, 1880, and is absent from the land in fraud of the act, he acquires none of the granted benefits; and this may be matter for investigation at the proper time.

Sec'y. July 30, 1881. (G.) *Bowers v. Wilson*, 8 C. L. O., 107.

Acts (of Congress):

Construction of sundry.

See *Pre-emption*, (construction,) No. 15, *et seq.*

Additional land:

6. A pre-emptor who first claimed less than 160 acres may file for 160 acres by embracing an additional vacant tract or tracts adjoining the land first claimed.

Sec'y. Jan. 16, 1882. (G.) *Osborne v. Havens & Haws*; *Bryan v. Whittles*. (1st Lester, 391, cited.)

See *Pre-emption*, (amendment,) No. 9.

Administrator:

See *Pre-emption*, (entry,) No. 51.

Adverse claim:

7. To defeat a prior pre-emption claim, defective only in that proof and payment were not made in time, must be sustained by the usual and accepted affirmative proofs.

Sec'y. Dec. 10, 1881. *Larson v. Parks*, 8 C. L. O., 158.

Affidavit of contest:

See *Pre-emption*, (waiver,) No. 165.

Agreement:

See *Pre-emption*, (construction,) No. 20.

Alien:

8. Acquires no right whatever by mere settlement upon the public land.

Act'g Sec'y. Sept. 28, 1881. *Bachman v. Schindler*; *McMurdie v. Central Pac. R. R.*, 8 C. L. O., 36; *Aubrey v. Clapp*, 8 C. L. O., 193; and *Andrews v. Forest*, Sec'y, Oct. 16, 1882, cited.

Amendment:

9. Of declaratory statement allowed to embrace an additional quantity of land, sufficient, with that originally filed, to aggregate 160 acres.

Com'r. (G.) Nov. 28, 1882. *R. & R., Walla Walla.*

10. Of a filing or entry cannot be allowed to the detriment of a subsequent settler, where the mistake in description was due to the applicant's negligence.

Com'r. (G.) Nov. 28, 1881. *Snoderly v. Fulton.*

Appeal:

See *Practice*, (appeal,) No. 1, *et seq.*

Land Department, (Com'r General Land Office,) Nos. 11, 17.

Board of Equitable Adjudication:

11. Has exclusive jurisdiction within the sphere of the powers conferred upon it by statute. No appeal lies from its decisions, nor are they subject to review by any other tribunal. It may, upon allegations of fraud in an entry, revoke its confirmation thereof.

Sec'y. Dec. 8, 1882. *Conlin v. Yarwood.*

Citizenship:

12. Subjects of other Governments resident in the ceded portions of Mexican territory at date of the treaty of Guadalupe Hidalgo, were not embraced within the terms of the eighth article thereof, and, not having become naturalized, or declared their intention to become citizens of the United States, remained residents of the United States, as before they were but residents of Mexico.

Sec'y. Feb. 4, 1882. *Aubrey v. Clapp*, 8 C. L. O., 193.

13. The right of, not acquired by any one who came to this country with his father when a minor, the father never having become fully naturalized.

Sec'y. Feb. 18, 1881. *Hutchinson v. Donaldson.*

14. No right of, conferred by R. S. 2167 prior to the date of taking the oath and submission of the proofs therein required.

Act'g Sec'y. May 16, 1881. *Hutchinson v. Donaldson*, 9 C. L. O., 150.

Claim:

See *Pre-emption*, (construction,) No. 17.

Commissioner of the General Land Office:

See *Land Department*, (Com'r G. L. O.,) No. 10, *et seq.*

Construction:

15. Act of March 3, 1863.

Sec'y. July 24, 1882. *D. W. Diggs*, 9 C. L. O., 104.

Construction—Continued.

16. Of July 23, 1866. The seventh section of, not repealed by the Revised Statutes.
Sec'y. June 8, 1882. *Ward v. Williams*.
17. Of May 14, 1880. The word "claim" in first section refers only to inceptive rights that may be acquired by settlers under the several acts therein named, but does not include pre-emption cash entries.
Com'r. (G.) July 21, 1881. *Ole C. Ulven*. Mar. 11, 1881. *Martin O. Hexom*.
18. Of May 28, 1880, for disposal of Osage trust and diminished reserve lands.
Com'r. (G.) Jan. 1, 1881. *John C. Hendrickson*. Feb. 5, 1881. *A. E. Lamb*.
19. Of June 8, 1880, relating to pre-emption and final homestead affidavits.
Com'r. (G.) Aug. 23, 1881. *Calvin Hawkins*, 8 C. L. O., 93.
20. The contract or agreement referred to in R. S. 2262, in order to defeat the pre-emptor's right of entry must be one by force of which title to the land must vest in some other person than himself; and it must appear that such was his intention in making it.
A mortgage given by the pre-emptor, if a mere security for the money loaned, and not a contract necessarily divesting him of the title, is not a contract or agreement within the meaning of said section.
Sec'y. April 24, 1882. *Larson v. Weisbecker*, 9 C. L. O., 60.
Act'g Sec'y. Oct. 22, 1882. *Jenkins v. Sisk*.
21. A quitclaim deed is not such a contract as comes within the meaning of R. S. 2262, and will not defeat the right of entry. *E converso* in case of a warranty deed.
Com'r. (G.) Oct. 10, 1881. *State of Cal. v. Alari*, 8 C. L. O., 140.

See *Pre-emption*, (Osage trust and diminished reserve lands,) No. 86, *et seq.*

Contest :

22. May be brought in certain cases to determine the nature and extent of individual possession and the legal priorities of the respective claimants.
Sec'y. Jan'y 15, 1881. *Kort v. Helton*.
23. Cannot be brought against unexpired pre-emption filing by a stranger to the record.
Com'r. Aug. 12, 1881. *Milam v. Favrow*, 8 C. L. O., 93.

Contestant :

See *Pre-emption*, (preference right,) Nos. 105, 106, 107.

Contract or agreement :

24. The existence of, by which the title the pre-emptor might acquire would inure to the benefit of another, while a bar to entry, does not defeat entirely the pre-emption right; the settler may render himself qualified to take the prescribed oath by showing a rescission of the contract.
Com'r. (G.) Oct. 10, 1881. *State of Cal. v. Alari*, 8 C. L. O., 140.

Contract or agreement—Continued.

25. An agreement by a pre-emptor to abandon his rights, occupancy, &c., so that another may pre-empt the same land, is valid.
Clsen v. Orton, 28 Minn. R., 36.

See *Pre-emption*, (construction,) No. 20, as to, in meaning of R. S. 2262.

County seat :

26. No proof is required in entry of, under R. S. 2286 except that the commissioners must show that they are authorized to make the entry and that the seat of justice of the county is located on the quarter-section sought to be entered.
 Com'r. (G.) March 23, 1881. *Le Grand, Oregon*.
 Com'r. June 8, 1881. *Central City, Colo.*
27. In making entry for, notice of intention under act of Mar. 3, 1879, must be published.
 Com'r. (G.) June 8, 1881. *R. and R., Central City, Colo.*

Declaratory statement :

28. The offer to file, and its erroneous rejection, has the same effect as though the filing had been accepted.
 Sec'y. Jan. 31, 1881. *Stuart v. Pentland*, 7 C. L. O., 180.
29. One who settles and files a D. S. with knowledge of a prior claim, and abandons, without consideration, in consequence thereof, may file a second for another tract.
 Com'r. (G.) Jan. 25, 1881. *Samuel Englehart*.
30. It is of no consequence that the D. S. is not filed within the statutory period, in the absence of an adverse claim.
Stuart v. Pentland, *supra*.
31. The filing of, prior to the filing of the plat of survey, in the local office, is unauthorized, premature, and void.
 Sec'y. June 17, 1881. *R. W. Clark*.
Lansdale v. Daniels, 10 Otto, 113, cited.
32. One who files and transmutes same to a homestead entry, exhausts his pre-emption right.
 Sec'y. July 21, 1881. *John Gunn*.
33. In the absence of adverse rights a party may file a second, for the same tracts.
 Sec'y. Nov. 17, 1881. *Wm. L. Phelps*, 8 C. L. O., 139.
 Sec'y. June 20, 1882. *Jas. H. Rattle*.
34. One who has filed a D. S. for land afterward reserved, is entitled to file another for other land upon which he may have settled.
 Com'r. (G.) Jan. 4, 1882. *Rees v. Churchill*.
35. It is not essential that a D. S. should be dated. The date of actual filing should be noted on it by the local officers.
 Com'r. (G.) July 13, 1882. *R. and R., Miles City, M. T.*
36. An agent may fill up the blanks in a D. S. and file the same in person, or forward it through the mails; but it must be signed by the claimant in presence of a witness.
 Com'r. (G.) July 13, 1882. *R. and R., Miles City, M. T.*
37. A settler cannot be placed under oath at time of filing his D. S. as to the facts respecting his right to file the same. *Id.*

Declaratory statement—Continued.

38. Second D. S. may be filed and effective, when by reason of defects in first declaration it is unavailing, and no rights of third persons have intervened.

Cumens v. Cypher, 56 Cal. R., 383.

39. The rule that the filing of a pre-emption D. S. prior to filing the map of survey is a nullity, held to apply to a home-stead application. The applicant acquires no rights thereby, and it has only the effect to show his intent in respect to the tract.

Sec'y. Jan. 18, 1881 (P.) *Frank Portman*.

Deed:

See *Land Dep't*, (Com'r. G. L. O.,) No. 13.
Pre-emption, (construction,) No. 21.

Default (Osage trust and diminished reserve land):

40. As between two pre-emption claimants, both of whom were in default, as respects the filing of a D. S. in time, he who first gives notice of his claim is entitled to make entry.

Sec'y, Mar. 5, 1882. *Herbert v. Reed*, 9 C. L. O., 9.

Dilress:

41. Will excuse a failure to comply with the requirements of the pre-emption law.

Com'r. (G.) Feb. 28, 1881. *Jepson v. Wilburn*, 9 C. L. O., 133.

42. A failure to comply with law on account of, can only be excused when it is shown that the party was in fear of his life, or great bodily injury, superinduced by threats made to him personally or brought to his knowledge, or by attempted violence.

Com'r. (G.) Apr. 11, 1881. *Wiggins v. Segar*.

43. A person to be excused because of, must show that his fears were superinduced by danger threatened and impending, sufficient, in apprehension, to overcome the mind and will of a person of ordinary firmness.

Com'r. (G.) Oct. 7, 1882. *Thurman v. Simmons*.

Entry:

44. Where notice of intention to make proof and payment, as required by act of March 3, 1879, is given prior to the expiration of the statutory period, the entry takes effect, by relation from the date of such notice, to the exclusion of all intervening claims.

Sec'y. Apr. 28, 1882. *Ramage v. Maloney*.

45. An entry of land for cash or scrip, gives the party making it a right to a patent, if it be found regular and valid. But it does not pass the title, which remains in the U. S. until the patent issues.

Sec'y. June 14, 1882. *James Aiken*, 9 C. L. O., 76. See Sec'y. Nov. 1, 1881. *Shumway v. Foss*.

46. Conveyance of an inconsiderable quantity of the tract claimed, not a bar to entry.

Act'g Sec'y. Aug 11, 1882, *State of Cala. v. Alari*.

Entry—Continued.

47. Pre-emption cash entry not included in the word "claim" in first section of act of May 14, 1880.
Com'r. (G.) Jan. 21, 1881. Ole C. Ulven.
48. Manner of making, when land claimed is situate in two land districts.
Com'r. (G.) May 17, 1881. R. and R. Pueblo, Colo. Feb. 8, 1882. Edward Westgate.
49. A new entry may be made upon day of filing second D. S., by one whose first filing and entry for same tract were canceled for invalidity, when good faith is shown by extent of improvements and actual residence.
Com'r. (G.) Mar. 17, 1882. Francis A. Stroup, 9 C. L. O., 8.
50. An entry allowed upon proof satisfactory to the local officers is *prima facie* valid and should be disturbed only on the clearest proof of fraud, unless absolutely void.
Com'r. (G.) June 27, 1882. Arnold v. Langley, 9 C. L. O., 76.
51. The right of entry vested in the administrator, or one of the heirs of a deceased pre-emptor, by R. S. 2269, is one acquired by compliance with law by the deceased, and it is only necessary that the administrator or heir should submit the necessary proof of his right of entry.
Com'r. (G.) Aug. 7, 1882. Heirs of Le Claire v. Baker.

Estoppel:

52. Where a claim is located upon the ground before survey, either with Valentine scrip, or under the pre-emption laws, and other claims are afterwards made and located with reference thereto, the party first locating and making known his claim will not be permitted to enlarge the same, to the injury of subsequent locators, whose claims have been made to conform to such first location.
Act'g Sec'y. Aug. 10, 1882. Caulfield v. Bosworth.

Evidence:

53. Of matters not incident to the charges upon which the hearing was ordered, should not be considered.
Sec'y. Nov. 16, 1882. Shull v. McCormick.
54. In contests under the land laws must be confined to the allegations, and judgment rendered on the issues raised by the record only.

*Id.**Filing:*

55. One who had prior to the adoption of the Rev. Stats. (June 22, 1874) made a legal filing for unoffered land and abandoned same, is not disqualified thereby from filing under the provisions of R. S., 2259.
Sec'y. Aug. 1, 1882. State of Cal. v. Pierce, 9 C. L. O., 118.
56. Second allowed, when first was made of land worthless for agricultural purposes at a time when its character could not be ascertained; and was relinquished, with due diligence, after discovery of its character.
Com'r. (G.) July 1, 1882. R. & R. at Grand Forks, D. T.

Filing—Continued.

57. The invalidity of a filing or entry, when it appears, relates back to the date of such filing or entry, and draws with it all subsequent proceedings.

Sec'y. Jan. 31, 1881. *Stuart v. Pentland*, 7 C. L. O., 180.

58. A second filing, evidently intended as an amendment of the existing one, made in accordance with the advice of the local officers, though erroneous, cannot be construed as illegal, nor held as an abandonment, the *quo animo* being considered.

Com'r. *White v. Warren*, Jan. 3, 1881, 7 C. L. O., 164.

59. A filing made in collusion and not in good faith, and on an antedated settlement, for the purpose of defeating a prior homestead entry, should be canceled under R. S., 2262.

Sec'y. Dec. 17, 1880. *Powers v. Forbes*, 7 C. L. O., 149.

60. If a party with knowledge of fraudulent filing, made in his name by another, makes no attempt to avoid the fraud; the law will construe the act as his own, and such fraudulent filing operate as a bar to another.

Com'r. (G.) June 11, 1881. *Folley v. Gardner*.

61. The filing of a second settler, where the prior settler conforms to the requirements of the law, is illegal, the right of pre-emption being in the first settler, his second filing is not within the prohibition of R. S., 2261.

Com'r. (G.) Dec. 5, 1881. *Couts v. Barnham et al.*

62. An illegal filing by reason of the pre-emptor's disqualification at date thereof, is not a bar to a legal filing upon removal of such disqualification.

Id.

63. A filing in violation of the law is void *ab initio*.

Id.

Cases of *Thomas Thompson*, C. L. L., 229, and *Lansdale v. Daniels*, 10 Otto, 113, cited.

Forfeiture:

64. Of prior claim for failure to make proof and payment in time, will not be declared unless the adverse claim is sustained by the usual affirmative proofs.

Sec'y. Dec. 10, 1881. *Larson v. Parks*, 8 C. L. O., 158.

65. Will not be incurred under R. S., 2262, where the pre-emptor conveys, prior to entry, an inconsiderable quantity of the tract claimed. In such case the principle, *de minimis non curat lex*, applies.

Act'g Sec'y. Aug. 11, 1882. *State of Cala. v. Alari*.

See *Pre-emption*, (Osage trust and diminished reserve lands,) No. 88.

Fraud:

66. The entry of a pre-emptor, prior to patent, is subject to the action of the General Land Office, and may be canceled for fraud or invalidity.

Sec'y. Nov. 1, 1881. *Shumway v. Foss*, *Whitaker v. S. P. R.*, 7 C. L. O., 85, cited.

See *Pre-emption*, (filing,) Nos. 59, 60.

Good faith:

67. The law recognizes circumstances, as well as time, in the development of a pre-emptor's good faith, after his first act of settlement and before the date at which he is required to make proof and payment.

Com'r. (G.) Oct. 29, 1882. Fullen v. Thomas.

See *Pre-emption*, (residence,) Nos. 128, 130.

Hearing:

68. Upon application of pre-emptor to dispose of claims made subject to his prior right, should not be allowed, until he applies to make proof and payment.

Sec'y. Feb. 20, 1882. Hanson v. Berry, 8 C. L. O., 188.

Sec'y. July 21, 1882. Conners v. Walker.

69. Where several parties file for the same tract, a hearing should not be ordered simply to advise the parties of the status of their claims. The notice by publication of intention to make final proof is alone required in such cases.

Sec'y. Aug. 2, 1882. Sprague v. Robinson, 9 C. L. O., 117.

70. It is within the jurisdiction of the local officers to order hearing upon allegations of non-compliance with law since date of former trial.

Com'r. (G.) Jan. 20, 1881. Zachary v. Westbrook, 7 C. L. O., 178.

Heirs:

71. R. S. 2269, which provides for the issuance of a patent to the heirs of a deceased pre-emptor, attaches no qualifications to that word; and if he left an heir or heirs, capable of inheriting, in the State where the land is situate, the G. L. O. cannot inquire further.

Com'r. (G.) Aug. 7, 1882. Heirs of Le Claire v. Baker.

See *Pre-emption*, (residence,) No. 131.

Homestead entry:

72. Parties claiming the right to make, under the 3d sec. act of May 14, 1880, of land already embraced in a homestead entry, are required to establish the priority of their claims, and secure the cancellation of the intervening entry, prior to the allowance of their applications.

Com'r. (G.) Sept. 25, 1882. Wolf v. Struble, 9 C. L. O., 148.

Improvements:

73. The possibility of one party taking the improvements of another under the settlement laws, recognized as within the contemplation of the statute.

Act'g Sec'y. Oct. 1, 1881. Marks v. Bray, 8 C. L. O., 139.

Incorporated limits:

74. Land within the limits of a town, not being land which it is entitled to enter by reason of its population, and not actually settled upon, inhabited, improved, and used for business and municipal purposes, is subject to pre-emption claim, by virtue of sec. 1, act of March 3, 1877.

Sec'y. Oct. 26, 1881. Lewis et al. v. Seattle et al., 8 C. L. O., 9.

Indians:

75. The general statutes for naturalization do not apply to Indians, and there is no law that confers upon them the right of pre-emption.

Com'r. June 5, 1882. Soloman Scott, Colfax, W. T.

Inhabitaney:

See *Pre-emption*, (mistake,) No. 79.

Intention:

76. To claim the benefit of the pre-emption law, manifested by acts or declarations, is essential to the acquisition of pre-emption rights.

Com'r. (G.) Feb. 21, 1881. Scott v. Bazarano.

Act'g Sec'y. Aug. 11, 1882. State of Cal. v. Alari.

Laches:

77. If a contestant does not publish and prove his own claim, within the time allowed by law, he is in no condition to ask cancellation of a prior claim, under R. S. 2265, upon allegation of laches on the part of another.

Act'g Sec'y. Aug. 11, 1882. Gardner v. Snowden, 9 C. L. O., 116.

See *Pre-emption*, (Osage T. & D. R. lands,) No. 86.

Location:

See *Pre-emption*, (estoppel,) No. 52.

Misconduct or neglect:

78. Of a public officer, will not prejudice the right of a claimant who has done everything in the prosecution of his right that the law requires of him.

Sec'y. Jan. 31, 1881. Stuart v. Pentland, 7 C. L. O., 180.

Lytle v. Arkansas, (9 Howard, 333,) cited.

Mistake:

79. Where a pre-emptor intended to build his house on the land claimed, but by mistake built it over the line, such mistake will not prejudice his claim, if corrected when discovered and good faith sufficiently appears.

Sec'y. Jan. 13, 1881. Day v. De Witt.

Sec'y. July 7, 1881. Quick v. Nichols.

Com'r. (G.) June 27, 1882. Arnold v. Langley.

Mortgage:

See *Pre-emption*, (construction,) No. 20.

Notice:

80. Settlers not compelled to file written notice, claiming extension of time for proof and payment, on account of grasshopper ravages.

Com'r. (G.) Feb. 2, 1881. McFadgen v. Marsch et al. Shreves v. Eaton (5 C. L. O., 165) cited.

See *Pre-emption*, (county seat,) No. 27; (entry,) No. 44; (hearing,) No. 69; (Osage T. and D. R. lands,) No. 91; (town lots,) No. 152; (transmutation,) No. 161.

Occupant:

81. The claim of a person who is qualified, and has complied with the law, will not be subject to defeat in favor of an unlawful occupant.

Act'g Sec'y. Oct. 1, 1881. *Marks v. Bray*, 8 C. L. O., 139. *Molyneux v. Young*, 7 C. L. O., 107; and *Powers v. Forbes*, *id.*, 149, cited.

82. The possession of one who held in pursuance of no claim under any law of the United States for the disposition of its lands; or who having a claim did not possess the necessary qualifications; or had forfeited it by failure to comply with the conditions of the law; is no bar to the entry of another party.

Com'r. (G.) May 14, 1881 *Walsh v. Blevins*.

Com'r. (G.) Nov. 28, 1881. *Snodderly v. Fulton*.

Occupation:

83. Without an intention to claim under the pre-emption law a mere occupancy of the public lands confers no right.

Sec'y. Jan. 13, 1881. *Day v. De Witt*.

84. Mere occupancy of public land, without pre-emption claim, does not secure to one the benefits of that law.

Act'g Sec'y. Aug. 11, 1882. *State of California v. Alari*.

85. Of a part of a school section for municipal purposes, prior to the survey in the field, gives the town authorities the preference right to enter the land so occupied at any time prior to the day of public sale.

Com'r. (G.) Feb. 15, 1881, to R. & R. at Miles City.

Offered lands:

See *Pre-emption*, (private entry,) Nos. 110, 111.

Osage trust and diminished reserve lands:

86. The act of May 28, 1880, cures the former laches of the settler in failing to prove up within the period allowed by former acts relating to said lands.

Sec'y. Jan. 8, 1881. *Bosseck v. Arendt*.

87. To bring a claim within the provisions of section 1, it must have been actually presented. Unless presented in the manner and within the time allowed, and a subsequent valid right has intervened, it has necessarily lapsed, and the land is subject to disposal to actual settlers under section 2.

Com'r. (G.) Jan'y 8, 1881. *John C. Hendrickson*.

88. The penalty of forfeiture by which the land would become subject to disposal under section 3, is not affixed to failure to make a claim under section 1. Such forfeiture is only incurred *after* proof has been made, and the purchase money or some portion thereof becomes due and is not paid.

Id.

89. Lands which are to be listed for sale, in accordance with the provisions of the third section, are lands that fall within the cases where default has been made, by the settlers, in

Osage trust and diminished reserve lands—Continued.

the payment of any portion of the purchase money after the same has become due.

No part is due until proof has been made.

Com'r. (G.) Feb'y 5, 1881. Arnold E. Lamb.

90. A settler having a claim under the first section, and having failed to make proof thereof within the time allowed, may, if otherwise qualified to do so, make his entry under the second section, subject to the intervention of a valid adverse claim as in ordinary pre-emption cases.

Id.

Also, June 28, 1881. Wm. Garrison.

91. In entries hereafter made under the second section, the general principles of the pre-emption laws in respect to filing, proof of settlement, and notice of making proof, will be required to be followed. Filings must be made within three months from date of settlement; proof, and payment of not less than one-fourth the purchase price within six months from date of filing, and notice by publication as required in other pre-emption entries.

Id.

92. The settlers who are qualified to prove their claims under the first section of the act are those who at date thereof were settlers under former laws, and must possess the qualifications prescribed by those laws. Settlers making entry under the second section of the act are required to have the qualifications of pre-emptors on the public lands.

Case of Arnold E. Lamb, *supra*.

93. An applicant to enter under the second section must show actual residence upon the tract claimed.
Com'r. (G.) Feb'y 10, 1881. R. B. Shepard.
94. A residence of not less than six months must be shown as an evidence of good faith.
June 23, 1881. Instructions to local officers.

Possession:

95. Of one claiming, under the grant title, lands excluded from a Mexican grant by final survey, is protected by the act of July 23, 1866; which gives him, to the exclusion of all others, the right to obtain title. Such a possession is lawful, and settlements made in conflict with it are unauthorized, illegal, and void.

Com'r. (G.) Jan. 12, 1882. McAllen Brown *v.* Quinlan *et al.* Atherton *v.* Fowler, 6 Otto, 513; Hosmer *v.* Wallace, 7 Otto, 575; and Powers *v.* Forbes, 7 Copp, 149, cited.

96. Cannot be invaded by pre emptors. In allowing pre-emption upon unsurveyed lands Congress did not authorize interference with the peaceable possession of previous occupants.

Gimmy *v.* Culverson, 5 Saw., C. C., 605; Davis *v.* Scott, 56 Cal. R., 165.

Possession—Continued:

97. The illegal possession of a tract cannot defeat the entry thereof by one qualified, who complies with the law, although intruding upon such possession.

Sec'y. Dec. 17, 1880. *Powers v. Forbes*, 7 C. L. O., 149.

Possessory rights:

98. To tracts of public lands in almost all the States containing public lands have been recognized and protected by the courts; and those holding said rights held to be tenants at the will of the Government, whose estates can only be defeated by the entry of one holding title from the Government, or who enters with the sanction of some law of the United States.

Com'r. (G.) Oct. 15, 1881. *Moore v. Homer*.

Pre-emption affidavit:

99. When taken before clerk of court under act of June 9, 1880, not required to cover date of entry.

Com'r. (G.) Aug. 23, 1881. *Calvin Hawkins*, 8 C. L. O., 93.

100. Where, executed before clerk of court, the local officers must exercise a sound discretion in determining whether a reasonable time only has elapsed between date of execution and receipt at local office.

Com'r. (G.) April 17, 1882. *R. & R., Montgomery, Ala.*

Pre-emption right:

101. Not acquired by one who removes from land in the same State or Territory, which he owns jointly or in common with another.

Act'g Sec'y. May 31, 1881. *Sederquist v. Wilcox*.

102. Attaches to a tract upon which the settler does some act with the intention of claiming.

Com'r. (G.) Feb. 21, 1881. *Scott v. Bazarano*.

103. Is extinguished by a reservation of the land claimed for public uses.

Com'r. (G.) Jan. 4, 1882. *Rees v. Churchill*.

104. Equitable rights of pre-emptor are maintainable against a patent obtained by false testimony, imposition, or misconstruction by the patenting authority.

Chapman v. Quinn, 56 Cal. R., 266.

See *Pre-emption*, (contract or agreement,) No. 24; (filing,) No. 61; (Indians,) No. 75; (intention,) No. 76; (town lots,) No. 155; (transmutation,) No. 162.

PRE-EMPTORS.

See *Pre-emption*, (abandonment,) Nos. 3, 4; (possession,) No. 96; (qualification,) Nos. 121, 122; (school section,) No. 135; (transmutation,) No. 161; (town site,) No. 158.

Preference right:

105. Granted a contestant by act of May 14, 1880, is not transferable.

Act'g Sec'y. Nov. 14, 1882. *Henton v. Howard*.

106. None acquired prior to the act of May 14, 1880, by contestant of a homestead entry.

Id.

Preference right—Continued.

107. Allowed a contestant by 3d sec. of the timber-culture act, does not reserve the land from other disposal; but any settlement or entry made after the cancellation of the contested entry is subject to the exercise of the privilege conferred upon the contestant.

Com'r. (G.) Nov. 26, 1881. *Thomas v. Drumhiller*.

108. Granted by 3d sec. timber-culture act is personal and not assignable.

Id.

109. Is not an interest in the land, but the right of the settler to be preferred as purchaser, which accrues when he has complied with the prerequisites of the act.

Aiken v. Ferry, 6 Saw., C. C., 79.

Private entry :

110. Lands in certain Southern States once offered, not subject to, until they shall have been reoffered.

Act'g Sec'y. May 27, 1881, 9 W. L. Rep'r, 367.

111. Lands once offered at \$2.50 per acre, but reduced in price to \$1.25 per acre, not subject to, until reoffered at the reduced price.

Act'g Sec'y. Oct. 30, 1882. *Sipchen v. Rose*, 10 W. L. Rep'r, 715. *Eldred v. Sexton*, 19 Wall., 189, cited.

Proof and payment :

112. Time for, extended by act of June 4, 1880, under certain circumstances, but the relation or rights of parties not thereby changed.

Sec'y. July 30, 1881. *Bowers v. Wilson*, 8 C. L. O., 107.

113. Because a party fails, only in the matter of time, in submitting, he should not be subjected to forfeiture unless a valid adverse interest has attached. Such adverse interest must be shown by affirmative proof.

Sec'y. Dec. 10, 1881. *Larson v. Parks*, 8 C. L. O., 158.

114. A settler whose failure to make, in time, is due to the erroneous statement of a public officer, acting within the scope of his authority, will be protected.

Sec'y. Dec. 19. 1881, *Vettel v. Norton*, 8 C. L. O., 179. *Lytle v. Arkansas*, 9 Howard, 314, cited.

115. If, when a pre-emptor appears to make, under his notice, he is surprised by the introduction of adverse and unexpected evidence, he may defer his offer thereof until any date within the time prescribed by law.

Com'r. (G.) Oct. 29, 1882, *Fullen v. Thomas*.

116. Time for, when lands are or are not subject to private entry.

Stalnaker v. Morrison, 6 Neb. R., 363.

Proprietor :

117. A person who owns land in trust for others, is not a proprietor of such lands, within the prohibition of the pre-emption act; and is not thereby disqualified from becoming a pre-emptor.

Sec'y. June 14, 1882. *Jas. Aiken*, 9 C. L. O., 76.

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Proprietor—Continued.

118. As used in section 10 of pre-emption act means an absolutely legal owner. One therefore who has entered land in trust, or entered public land, but not received patent therefor, is not disqualified as "proprietor" under the act.

Aiken v. Ferry, 6 Saw., C. C., 79.

Proprietorship:

119. That contemplated by R. S. 2260 is a legal and absolute one, and not the mere equity of a land-office entry, which may or may not ripen into ownership.

Com'r. (G.) Dec. 5, 1881. *Couts v. Barnham et al.*

Sec'y. June 14, 1882, *supra*.

Purchasers:

120. From pre-emptors, before patent, acquire but an equity; and take such title only as the vendee of the Government had.

Com'r. (G.) July 27, 1880. *Whitaker ex rel. S. P. R. R. Co.*, 7 C. L. O., 85.

Com'r. (G.) Apr. 19, 1881. *Benght. Johnson v. Hill.*

Sec'y. Nov. 1, 1881. *Shumway v. Foss.*

Qualifications:

121. The party must have those required of a pre-emptor, at date of settlement, in order to secure pre-emption rights.

Act'g Sec'y. Sept. 28, 1881. *Bachman v. Schindler.*

122. If a settler is a qualified pre-emptor at time of filing declaration, he is entitled, as against the U. S., to become the purchaser.

Aiken v. Ferry, 6 Saw., C. C., 79.

Registers and receivers:

123. The General Land Office will not authorize them to be absent from the seat of the local office, for the purpose of taking homestead and timber-culture affidavits.

Com'r. (G.) July 13, 1882. *R. & R., Miles City, M. T.*

Residence:

124. Is not essential to a pre-emption settlement; but settlement must be followed by residence within such reasonable time as to manifest a purpose to comply with the requirements of the law.

Act'g Sec'y. Oct. 25, 1882. *McInnes v. Strevell.*

125. One who removes from land which he owns jointly, or in common with another, to settle upon the public land in the same State or Territory, is within the prohibition of R. S. 2260.

Act'g Sec'y. May 31, 1881. *Sederquist v. Wilcox.*

126. One who removes from his own land, and after a considerable period returns and makes a settlement upon the public land, is not within the prohibition of the law.

Sec'y. Feb. 23, 1882, *Weir v. Haskins*; Nov. 7, 1882, *Owings v. Lichtenberger.*

Residence—Continued.

127. In computing the period of residence required by the homestead law, in the case of a claimant who had entered as a pre-emption a less quantity of land than that filed for, and made homestead entry of the balance; the time of residence under his pre-emption filing cannot be included.

Sec'y. Mar. 25, 1882. John H. Lessinger, 9 C. L. O., 8.

128. The rule of the General Land Office, requiring six months' residence by pre-emptor, as evidence of good faith, should not be indiscriminately applied; nor when good faith otherwise sufficiently appears.

Sec'y. Apr. 13, 1882. Alex. Blair *et al.*, 9 C. L. O., 36. Conlin *v.* Yarwood, 7 C. L. O., 118, cited.

129. One who removed from residence on a small tract, not agricultural, within the meaning of the statute, near or within the limits of a town, or city, is not inhibited from making settlement.

Com'r. Feb. 1, 1882. Sturgeon *v.* Ruiz, 8 C. L. O., 193.

130. If good faith is shown, but the extent of the pre-emptor's residence is not sufficient to justify the allowance of an entry, the claim will not be forfeited if the time for proof and payment has not expired; but the settler may, at a subsequent time, be allowed to enter upon showing compliance with law.

Com'r. (G.) May 14, 1881. Valasquez *v.* Sabine.

Com'r. June 29, 1831. Dale *v.* Smith.

131. The heirs of a deceased pre-emptor, or those entitled to perfect his claim, are not required to reside upon the land. They are entitled to complete his entry even though he had not established a residence there if his intentions are shown to have been those of a *bona fide* settler.

Com'r. (G.) May 5, 1881. Ole K. Knudson.

Com'r. (G.) Aug. 7, 1882. Heirs of Le Claire *v.* Baker.

132. Actual, upon the premises until final proof and payment are made, is required by the pre-emption act.

Aiken *v.* Ferry, 6 Saw., C. C., 79.

Homer *v.* Duggen, 56 Cal. R., 257.

Review :

133. A case will not be reopened upon a motion for review in order to apply to the same state of facts later rulings.

Com'r. (G.) June 30, 1882. McBride *v.* Lebeher.

See *Land Department*, Nos. 5, 7; (Com'r. G. L. O.,) Nos. 10, 11, 14.

School section :

134. The land being in, upon failure of the original settler to perfect his claim, the title vested in the State by relation, as of date of completion of the survey.

Sec'y. Feb. 21, 1882. Laesen *v.* Pechierer & Davis, 9 C. L. O., 97. Water & Mining Co. *v.* Bugby, 6 Otto, 165; Sherman *v.* Buick, 3 Otto, 209, cited.

School section—Continued.

135. The case of a pre-emptor who settles upon, prior to survey in the field in any Territory, is one between such settler and the Government, and a failure to file within three months will not prejudice his claim.

Com'r. (G.) May 10, 1881. *O. A. Sanders v. Jane Hodgert*, 7 C. L. O., 136, cited.

Com'r. (G.) Oct. 24, 1881. *J. C. Ryan*.

Selection :

136. The approval and certificate of, of land to which a valid adverse right had attached, is null and void.

Com'r. (G.) Dec. 15, 1881. *Garlick v. State of Cal.*

Settlement :

137. Of a pre-emptor, takes effect from the date his occupation accords with his intention to claim.

Sec'y. Jan'y 13, 1881. *Day v. DeWitt*.

138. No specific act of, after restoration of the land, is required on the part of a settler whose every-day life can be considered a compliance with the law; but such settler cannot embrace in his claim land not in his possession whereon are the improvements of another who, like himself, has settled without the protection of the law.

Com'r. (G.) April 27, 1881. *Allen v. Lancaster*, 8 C. L. O., 177.

Sec'y. July 7, 1882. *Myers v. Ball*, following *Corrigan v. Ryan*, 4 C. L. O., 42.

139. Residence is not essential to a pre-emption settlement, but settlement must be followed by residence within such reasonable time as to manifest a purpose to comply with the requirements of the law.

Act'g Sec'y. Oct. 25, 1882. *McInnes v. Strevell*.

140. Personal residence or inhabitancy is not indispensable to, but a party to initiate a legal settlement must perform some act by which others may have knowledge of his claim; something that can be seen, like cutting down trees, &c.

Com'r. (G.) April 29, 1881. *Gordon v. McNew*. *Allman v. Thulon*, C. L. L., 690, cited.

141. It is always desirable and expedient that the act of settlement should be notorious and significant of a purpose; but it would neither be safe nor right to reject claims in all cases, because of a lack of either or both these ingredients.

Com'r. (G.) May 13, 1881. *Maxwell v. Morgan*, 10 Wash. L. Rep., 24. *Hull v. Hawkins*, C. L. O., 191, cited.

142. By a party before the initiation of a valid adverse claim, although subsequent to his filing, the Gov't will condone his negligence. Where the Gov't is concerned, liberality is the rule; but where adverse rights are involved, a strict construction of the statute must be maintained.

Com'r. Dec. 18, 1880. *R. & R., Salt Lake City*, 7 C. L. O., 164.

But see Act'g. Sec'y. to Com'r. Aug. 31, 1880. *Genzel v. Gschwend*, 8 C. L. O., 159.

143. In Utah, with a view to pre-emption, if, on survey, found to be upon sections 16 or 36, is protected. The Territory has no vested interest in those sections, but merely a reservation for a prescribed use which does not attach in above case; the legal title remaining in the U. S.

Sec'y. Nov. 16, 1880, 7 C. L. O., 136.

Settlement—Continued.

144. Upon part of a quarter-section entitles the settler to pre-empt the whole thereof, as against subsequent settlers; and they acquire no right by purchasing the claim of a prior settler unless by actual entry he had acquired a transferable interest in the land.

Quinby v. Conlan, 104 S. C., 420.

145. Proof of, &c., required by law to be made to the satisfaction of the R. & R., is essential to the right of the party to enter.

Chapman v. Quinn, 56 Cal. R., 266.

See *Pre-emption*, (town lots,) Nos. 154, 155, 156.

Sioux Indian lands:

146. Act of March 3, 1863, for sale of, construed. Must be sold at their full appraised value, but in no case at less than \$1.25 per acre, even though the appraisal is less than that sum.

Sec'y. July 24, 1882. D. W. Diggs, 9 C. L. O., 104.

Southern States:

147. The lands in certain, restored to pre-emption and sale, by act of July 4, 1878, which were once "offered," must continue to be considered as "offered" in the treatment of pre-emption claims.

Act'g Sec'y. May 27, 1881. 9 W. L. Rep'r, 367.

148. They are not, however, subject to private entry until they shall have been reoffered.

Id.

State selection:

149. On unsurveyed lands, as good, in the absence of any pre-emption once made on surveyed lands.

U. S. v. Chapman, 5 Saw., C. C., 528.

Technicality:

150. Whoever relies on, to defeat an equitable right, must himself show technical compliance with legal requirements.

Act'g Sec'y. Aug. 11, 1882. Garner v. Snowden, 9 C. L. O., 116.

Timber:

151. The conversion and sale of, for neighborhood purposes, not necessarily indicative of bad faith in a pre-emptor. The pre-emptor has the right to convert, by means of a saw-mill, and dispose of it for his own benefit.

Sec'y. Oct. 11, 1882. State of Cal'a v. Dougherty et al. Franklin Shissler, 7 C. L. O., 37, cited.

See *Pre-emption*, (preference right,) Nos. 107, 108.

Town lots:

152. Claimants of, under R. S. 2382, are not required to give notice of their intention to make entry under act of March 3, 1879, but should give notice to adverse claimants by personal service or through the mails.

Com'r. (G.) July 14, 1882. R. & R., Boise City, I. T.

Town lots—Continued.

153. The rule of the pre-emption law that declaratory statement shall be filed within three months does not apply in town-lots cases.

Id.

154. The "actual settler" upon, must be an actual resident.
Com'r. (G.) Aug. 14, 1882. R. & R., Boise City, I. T.

155. The right of pre-emption granted settlers upon, is restricted to the lot settled upon and one additional lot, upon which the settler may have substantial improvements.

Id.

156. Settlers upon, are required to file their declaratory statements and to have the personal qualifications of pre-emptors.
Com'r. (G.) Aug. 14, 1882. R. & R., Boise City, I. T.

157. Contests between claimants of, will be governed by the Rules of Practice as in other cases.

Id.

Town site:

158. Is a pre-emption; and parties claiming under the town-site laws, through the proper authorities, stand upon the same footing as pre-emptors.

Com'r. (G.) Feb'y 15, 1881. R. & R., Miles City, Montana.

159. Instructions as to entry, proof, and payment in town-site cases.
Com'r. (G.) Mch. 18, 1882. Town of Bellevue, I. T., 9 C. L. O., 28.

160. The inhibition that one removing from his own land in the State or Territory, on to public land, is not a qualified pre-emptor, applies to one who owns and removes from *forty acres* within a town site. The exemption in favor of owner of *town lots* from the restriction, modified as above.

Com'r. Jan. 3, 1881. *White v. Warren*, 7 C. L. O., 164.

Transmutation :

161. Pre-emptors applying to transmute their filings to homestead entries, required to give notice to adverse homestead claimants, who will be allowed to contest the application.

Com'r. (G.) Sept. 25, 1882. *Wolf v. Struble*, 9 C. L. O., 148.

162. Transmutation of a filing to homestead entry exhausts pre-emption right.

Sec'y. July 21, 1881. *John Gunn*.

Trespass :

163. Upon the public lands will not be sustained under the decision in *Atherton v. Fowler*; nor will the claim of a person who is qualified, and has complied with law, be subject to defeat in favor of an unlawful occupant.

Act'g Sec'y. Oct. 1, 1881. *Marks v. Bray*, 8 C. L. O., 139.

Valentine scrip :

164. The law excludes the location of, upon occupied public lands.

Com'r. (G.) Oct. 15, 1881. *Moore v. Horner*.

Waiver :

165. After the parties have proceeded to trial upon the merits of the case, without objection by either that there was no preliminary affidavit of contest, the proceedings will not be vacated for that reason.
Sec'y. Jan. 15, 1881. *Kort v. Helton*.
166. The marriage of a single woman, subsequent to filing and prior to entry, is a waiver of her pre-emption right to the tract filed upon.
Sec'y. Apr. 19, 1881. *Rosana Kennedy*, 9 W. L. Rep'r, 283.
167. But her marriage subsequent to her application to enter, should not prevent completion of her entry.
Com'r. (G.) Oct. 28, 1882. *Spates v. Cameron*, 10 W. L. Rep'r, 747.
168. Failure to appeal from decision of the local officers is a waiver of any rights which the party may have had in the land in controversy.
Sec'y. Sept. 29, 1882. *Jefferson v. Shaw*.
169. The local officers, in citing parties to trial before the clerk of the court, violated Rule 35 of Practice; but by consenting to the proceedings, the parties waived any irregularities therein.
Sec'y. Nov. 27, 1882. *Jordan v. Wright*, 10 W. L. Rep'r, 792.
170. If the parties proceed to trial upon the merits of a case, without objection, it is too late, after the decision of the local officers, to object to their jurisdiction.
Com'r. (G.) Jan. 20, 1881. *Zachary v. Westbrook*.

Wife :

171. A divorced wife cannot claim the benefit of acts performed by her husband during coverture. She can only procure title under the pre-emption law, by virtue of specific acts performed by herself when a *feme sole* and the head of a family.
Sec'y. Feb. 21, 1882. *Larsen v. Pechierer et al.*, 9 C. L. O., 97.
172. While full faith and credit must be given to the decree of the court granting a divorce, it is competent for the Department and the General Land Office to consider collateral facts respecting the relations of the parties to the decree, for the purpose of deciding whether the divorced wife was the head of a family and a *bona fide* settler.
Act'g Sec'y. Nov. 9, 1882. *Critchfield v. Lewis*.
173. Deserted by her husband, is qualified to initiate a claim in her own right, but succeeds to no benefits under any filing he may have made.
Com'r. (G.) Oct. 11, 1881. *Bogardus v. Glaze*.
174. Where a wife endeavors to save her imprisoned husband's right of entry, by compliance with law in his stead, the same considerations must be applied to her acts, as illustrative of good or bad faith, as would be applied to his.
Com'r. (G.) Mar. 20, 1882. *Bates v. Reed*, 9 C. L. O., 8.

See *Railroads*, (Arkansas,) No. 2; (settlement,) No. 61.

PRE-EMPTION CLAIM.

- See *Pre-emption*, (incorporated limits,) No. 74.
Private land claims, (Sup. Court scrip,) Nos. 120, 121.
Railroads, Nos. 42, 43; (filing,) Nos. 12, 13.

PRE-EMPTION CLAIMANT.

- See *Public lands*, (record,) No. 305.
Railroads, Nos. 44, 45.

PRE-EMPTION LAW.

- See *Public lands*, No. 287.
Railroads, (Osage ceded lands,) Nos. 34, 35.

PRE-EMPTION RIGHT.

- See *Pre-emption*, No. 101, *et seq.*
Railroads, No. 46.

PRE-EMPTORS.

- See *Accounts*, (repayment,) No. 40.
Public lands, (homestead claimant,) No. 204.
Railroads, Nos. 47, 48; (declaratory statement,) No. 6.

PREFERENCE RIGHT.

- See *Pre-emption*, Nos. 105, *et seq.*; (occupation,) No. 85.
Public lands, No. 288, *et seq.*; (relinquishment,) No. 323.
Private land claims, (Oregon donations,) No. 64.

PRESUMPTION.

- See *Mines*, *f.c.*, (evidence,) No. 83; (mineral entry,) No. 136; (non-mineral affidavits,) No. 152.

PRIORITY.

- See *Pre-emption*, (default,) No. 40.
Mines, *f.c.*, No. 188; (survey,) No. 223

PRIVATE ENTRY.

- See *Pre-emption*, Nos. 110, 111.

PRIVATE LAND CLAIMS.—DIVISION D.*Acceptance:*

1. Of the legal evidence of title for amount of land awarded, after appeal from award on ground of its insufficiency, operates as a waiver of the appeal, and probably as a release of further claim.

Sec'y. June 12, 1882. Estafana Hicklin.

Act of June 22, 1860:

2. Claims under, in the absence of proof of title as required thereby, or of continuous possession, as provided by the act of June 10, 1872, cannot be favorably recommended to Congress for confirmation.

Com'r. (D.) June 2, 1882. Bradish Johnson.

3. Claims under, must be accompanied by proof of valid grant and interest (title) of claimants.

Com'r. (D.) Nov. 2, 1881. New Orleans Canal and Banking Co.

Act of June 22, 1860—Continued.

4. Required of claimants to give specific notice of their claims, accompanied by a sworn statement of the same; an abstract of their title and the evidence in support of their claims and title. Allegation and proof of title in another, and claiming as his "legal representatives," without proof of derived interest, not sufficient.

Com'r. (D.) July 13, 1882, heirs of J. H. McIntosh; July 20, 1882, Pierre Puisseau; July 28, 1882, heirs of T. R. Jennings.

5. Requisites to confirmation under.

Com'r. (D.) Aug. 26, 1880, Catholic church of Opelousas; Sept. 29, 1880, V. D. Walsh; Oct. 30, 1880, J. Florentine Piolet and Smith and Nettles; Nov. 6, 1880, Charles Portier and Wm. Ball; Nov. 15, 1880, Mrs. Zenon Boutte; Jan. 20, 1881, Mrs. Evariste Blanc; Feb. 21, 1881, J. C. Cofield; Mar. 17, 1881, Legal Rep's of L. N. Shelton; Mar. 18, 1881, Rafael Segoura.

Appeal:

6. Whether parties are entitled to, under the rules, depends upon their status in the proceedings, the provisions of law, and the rules and decisions of the Dep't applicable to the case, (and not to notice given to them by officer of the Land Department,) as to which they must act in their own discretion.

Com'r. (D.) Aug. 7, 1880, Pueblo lands of San José.

7. Not effective, under Rule 90, upon failure to file specifications of errors, as required by Rule 88.

Com'r. (D.) July 3, 1882. Town of Tecolote.

8. From R. and R., under Vigil and St. Vrain grant in New Mexico, lies to Com'r G. L. O.

Leitensdorfer v. Craig, 5 Dillon, C. C., 419.

Boundary:

9. Set out by a tribunal of competent jurisdiction (as, in California, the Land Commission,) is conclusive upon all parties, unless declared erroneous upon appeal.

Sec'y. July 28, 1882. Corte de Madera del Presidio.

10. The magistrate delivering possession of a Spanish or Mexican grant was confined to the limits designated in the grant or order under which he acted.

U. S. v. Castro, 5 Saw., C. C., 625.

11. Where proof as to boundary of claim, taken on a second investigation, shows that previous decisions have been made upon misrepresentation or mistake as to pertinent facts involved, amendment of survey will be ordered.

Com'r. (D.) June 13, 1881. Town of Tecolote.

12. When boundary line is by the descriptive call to terminate at the sea shore, the terminal point is reached at the intersection of such line with the line of tide-water of an inlet or arm of the sea.

Com'r. (D.) May 25, 1882. Santiago de Santa Ana.

Boundary—Continued.

13. Where, by an alleged misunderstanding, a wrong location of a controlling boundary point has been made, an investigation will be ordered, and on proof establishing the fact, a new survey directed.

Com'r. (D.) Oct. 29, 1880, May 13, 1881. Las Virgenes.
Acting Sec'y. Oct. 22, 1880.

British subjects:

See *Private land claims*, (Oregon donations,) No. 50.

Chauvin claim (Saint Louis, Mo.):

14. Decision of Com'r. (D.) Aug. 26, 1879. Reports of same to Dep't. Oct. 9, 1879, Sept. 27, and Dec. 24, 1880.
Decision of Sec'y. Mar. 2, 1881.

Complete title:

15. Claims under foreign grants, as conferring "complete title," not requiring confirmation, are not subject to affirmative adjudication by the Land Dep't.

Com'r. (D.) June 2, 1882. Bradish Johnson, La.

Construction:

16. Act of May 9, 1876, relating to the eastern boundary of the Presidio military reservation at San Francisco, and its application to the subject-matter.

Sec'y. Aug. 2, 1882.

17. Acts of 1860 and 1864 and their application as to the publication of surveys of private land claims, and the jurisdiction of the same under such publication.

Com'r. (D.) April 21, 1879. Rancho Napa.

Sec'y., (in affirmance,) Sept. 20, 1879, 8 C. L. O., 39.

18. Application of documents and evidence in case of pueblo lands of Monterey, tract No. 3.

Sec'y. Feb. 2, 1881, 7 C. L. O., 182.

19. A decree of confirmation should be so construed as to harmonize all its parts, and if ambiguous to give effect to its intention. If a subsequent clause is obscure it will not control a previous clear one.

Act'g. Sec'y. May 21, 1881. San Jacinto Nuevo y Potrero.

20. A grant for a "sobrante" (surplus) is not, necessarily, a grant *by name*; and the designation "sobrante" is subject to accompanying qualifying words, which are not repugnant but explanatory.

Sec'y. Feb. 26, 1881. El Sobrante.

21. A grant in Louisiana for a rear depth for the purpose of reaching the cypress timber, stated by petitioner to be at a league and a half distance, and granted for the vacant land back of his front 40 arpents, without specification as to depth, should be governed as to extent of depth by the intention of the parties manifested by the object in view as set forth by the petitioner.

Com'r. (D.) Oct. 10, 1882. Heirs of John Burnside.

Construction—Continued.

22. In determining the extent of a grant where the limit is not specified, the intent of the parties, the petitioner and the granting power, will govern, and is to be sought in the motive prompting their action and the object aimed at; to be ascertained from their words, acts, and accompanying circumstances.

Id.

23. "Mexican grantee," as used in the act of July 23, 1866, does not mean a person to whom a Mexican grant has actually been made; but one who, in good faith, has purchased land *supposed* to have been so granted and improved, and continued in possession thereof.

Bascom v. Davis, 56 Cal. R., 152; *Hosmer v. Duggan*, 257.

Id.

24. Section 7 of act of June 22, 1860, which provides that where claims presented under it have been before a former board of commissioners, the *facts* reported as proven by such board shall be taken as true *prima facie*, does not bind adjudications under said act by the *conclusion* of the board upon the facts so reported.

Com'r. (D.) July 15, 1882. Heirs of John H. McIntosh.

25. The decision of the Dep't in the "Lampoc contest" did not involve the extent of the Rancho Mission la Purisima, nor hold it to be a sobrante in the general acceptance of the term, but only as regarded the Rancho Lampoc and its northern boundary.

Sec'y. July 19, 1882. Mission de la Purisima.

26. The owners of a private land claim can take no more than was claimed in the petition for confirmation and designated in the decree of confirmation.

Id.

Donations :

See *Private land claims*, (New Mexico donations,) No. 41; (Oregon donation,) No. 46.

Estoppel :

27. A purchaser of a private land claim cannot claim relief from the effect of his own negligence. He is bound to investigate the title, and in respect to knowledge of matters affecting it stands in the same position as his grantor, and each was chargeable with all that the record showed.

Sec'y. Mar. 2, 1882. Chauvin case, (and numerous cases cited.)

Fraud :

28. Mistake and complicity of deputy surveyor, alleged, in location of a patented private land claim, suit to set aside patent recommended.

Com'r. (D.) Aug. 3, 1881. Cañon del Agua, N. M.

French grants in Louisiana :

29. After the cession of the province to Spain, Nov. 3, 1762, (in the absence of proof of the recognition thereof by Spain, after the transfer,) were void.

Com'r. (D.) Nov. 21, 1881, New Orleans Canal and Banking Co.; June 2, 1882, Bradish Johnson.

Head-rights :

30. Concessions of, in Florida, regulations and requisites, provisions determining appropriate quantity of land, possession necessary, &c., considered.

Com'r. (D.) July 15, 1882. Heirs of John H. McIntosh.

Indemnity scrip :

31. Act of June 15, 1880; for required quantity at \$1.25 per acre; locatable upon any land not mineral, subject to entry; and if located upon double-minimum lands, one acre thereof to satisfy two acres of the scrip.

Com'r. (D.) Oct. 27, 1880. Israel Dodge.

32. Assignment of, by "legal representatives." Requisites to its authentication.

Com'r. (D.) June 6, Oct. 29, Dec. 27, 1881. Walter Fenwick, Nov. 11, 1881.

33. Assignment of, by attorney to be recognized as valid, must be accompanied by evidence of his authority to act in that capacity in the case.

Com'r. (D.) Sept. 27, 1882.

Interference :

34. Claim in Louisiana confirmed by act of May 24, 1828, and located by district officer, Dec. 28, 1852; interfering cash entry and State swamp land selections held invalid and patent directed to claimants.

Com'r. (D.) June 25, 1881. Dempsey Isles.

Investigation :

35. At any time before final approval of survey, where further investigation appears to be necessary, it may be ordered.

Sec'y. June 17, 1881.

Com'r. (D.) Oct. 12, 1881. Pueblo lands of San José.

36. May be directed by G. L. O., under act of July 1, 1864, in case of surveys not objected to on publication.

Sec'y. July 14, 1880.

Com'r. (D.) May 25, 1882. Santiago de Santa Ana.

37. Ordered after two surveys of claim, on ground of alleged mistake in location of controlling point in boundary.

Com'r. (D.) Sept. 20, 1880. Town of Tecolote.

Jurisdiction :

38. The decision of a court of competent jurisdiction cannot be reviewed or disregarded by the Land Department.

Sec'y. Jan. 4, 1882. Rancho Alisal, 9 C. L. O., 11.

39. The act of July 1, 1864, gave the United States district court jurisdiction of surveys *pending therein* at its passage, though approved before the passage of the act of June 14, 1860, and not then returned into court, but afterwards improperly ordered there, under said last-mentioned act. Former decisions of Com'r and Department to the contrary considered and overruled.

Id.

Jurisdiction—Continued.

40. When the district court, under act of June 14, 1860, had ordered a survey of a confirmed Mexican claim into court for examination, its jurisdiction over it continued, and over any new survey directed by it, until the survey was finally disposed of, notwithstanding the passage of the act of July 1, 1864.

U. S. v. Castro, 5 Saw., C. C., 625.

New Mexico donations :

41. Lands in that part of Colorado, which, on the 22d of July, 1854, formed part of the Territory of New Mexico, are subject to the provisions of the act of that date granting donations, &c.

Com'r. (D.) Feb. 8, 1882. M. Salazar.

42. Notification standing intact, on record of local office, operates, for the time being, as a reservation of the land claimed.

Com'r. (D.) Mar. 25, 1882. R. & R., Santa Fé.

43. There appears to be no limitation as to the time within which claims under act of July 22, 1854, must be perfected.

Id.

44. The proviso in the 2d section of the act of July 22, 1854, is explicit as to the time within which donees are required to designate the boundaries of their claims.

Com'r. (D.) Feb. 13, 1882. R. & R., Santa Fé.

45. Under act of July 22, 1854, donations are required to include the actual settlements and improvements of the claimant; to be selected by legal subdivisions within three months after survey, if made before survey, and if after, within three months after settlement; the boundaries to be designated within that time.

Com'r. (D.) Mar. 10, 1882. R. & R., Santa Fé.

Oregon donations :

46. A qualified claimant, whose residence and cultivation upon his claim has continued over one year, is entitled under the 1st section of the act of July 17, 1854, to purchase the land claimed at \$1.25 per acre.

Com'r. (D.) Feb. 6, 1881. W. D. Jasper.

47. A single woman who settled in Oregon in 1853 cannot claim donation under the 5th section, act of Sept. 27, 1850; that section being limited to white male persons.

Com'r. (D.) June 18, 1881. Mrs. Brewer.

Sec'y. June 29, 1882.

48. A homestead claim, initiated upon the claim of a donation claimant, before completion of the required term of residence, &c., is an "adverse right" within the meaning of the act of June 25, 1864; and as such, defeats a notification subsequently filed by the administrator of the deceased donation claimant.

Com'r. (D.) Dec. 4, 1880. Heirs of Oliver v. Guerin.

Oregon donations—Continued.

49. At law under Oregon donation act, a patent to a married man and his wife by name, cannot be avoided by showing that the true wife was another person than the one named in the patent.

Sharp *v.* Stephens *et al.*, 6 Saw., C. C., 48.

50. British subjects, by treaty of 1846, under provisional government in Oregon, had only possessory right in land settled upon, which went to administrators and not to heirs.

Georgetown *v.* De Haven and wife *et al.*, 5 Saw., C. C., 146.

51. Claim by settler *in good faith* upon land partially within one mile from military reservation at Vancouver, held valid for that part outside of the one mile line; but investigation ordered to determine as to the *bona fides*.

Sec'y. Feb. 1, 1881. A. J. Bolon.

52. Claimant having died before completing required term of residence and cultivation, and the tract being claimed by a homestead settler, the administrator of the deceased prospective donee has no legal status to contest the homestead claim.

Com'r. (D.) Dec. 4, 1880. Heirs of Oliver *v.* Guerin.

53. Claimant dying before completion of term of residence, &c., certificate in name of deceased and his widow is erroneous; should be to widow and heirs.

Com'r. (D.) May 5, 1880. Heirs of J. H. Conner.

54. Claim of donation having been abandoned, before completion of term of residence, notification will be canceled.

Com'r. (D.) Feb. 24, 1881. U. H. Dunning.

55. Claimant being a citizen of the United States above 18 years of age and resident of Oregon at date of passage of act of Sept. 27, 1850, but not married until after one year from Dec. 1, 1850, was entitled to 320 acres donation as a single man. Certificate to husband and wife erroneous.

Com'r. (D.) June 22, 1881. Miller and wife.

56. Donation certificate to donee claimant as a married man, he not having been married until after a year from Dec. 1, 1850, held erroneous and new certificate directed.

Com'r. (D.) May 12, 1881. Charles Ham.

57. Certificate to donation claimant as a single man, who at the date of his arrival in Oregon, was, in fact, married, is erroneous. Certificate directed to issue to husband and wife.

Com'r. (D.) June 11, 1881. Thos. Graham; same, C. A. Deal.

58. "Children," under section 4 of Oregon donation act, includes grandchildren.

Cutting *v.* Cutting *et al.*, 6 Saw., C. C., 396.

59. "Children or heirs," grant to in section 4, Oregon donation act, take effect first to children; and only to heirs in default of children.

Id.

Oregon donations—Continued.

60. "Children," under Oregon donation act, on death of parent, (settler,) take direct as donee of United States and not by descent.
Id.
61. Commutation, under Oregon donation act—settler's right to, is a question of law, and the decision of the Land Dep't subject to review by circuit court.
Bear v. Luce, 6 Saw., C. C., 148.
62. Heirs at law and widow of deceased donation claimant take the land in common; no division by the land officers is authorized by law.
Com'r. (D.) Mar. 17, 1882, heirs of Elijah Elliott; May 5, 1882, heirs of J. H. Conner.
63. Lands claimed under the donation act are segregated when the notification is filed. Claimants should be held to the lines of description in their original notification.
Com'r. (D.) May 25, 1882. *Atwell and Chipman*.
64. Land Dep't on relinquishment of donation claim has no power to grant a *preference right* to one desiring to make a homestead of the land relinquished. Parties must be governed by the law and regulations applicable to the case.
Com'r. (D.) June 2, 1882.
65. Notification segregates the land claimed as a donation, and subsequent survey, which did not locate it as thus described, set aside.
Com'r. (D.) April 27, 1881. *John J. Elliott*.
Sec'y. Mar. 6, 1882.
66. Notice and proof by claimant (of long anterior settlement) within twelve months after survey sufficient under 7th section of act of Sept. 27, 1850, to establish his right against claim under railroad grant; although the line of road was definitely fixed before such notice and proof.
Com'r. (D.) June 6, 1882. *Baptiste Peon*.
67. Notification by A, with which subsequent notification by B was in partial conflict; and on final proof by B, A, under affidavit that he was in no way interested in the land claimed by B, held an abandonment by A to the extent of B's notification.
Com'r. (D.) May 31, 1881. *A. Sulgar*.
68. Notification canceled where party made a subsequent notification on different land, which on final proof was patented.
Com'r. (D.) April 13, 1881, *Watson and wife*; May 22, 1881, *Crawford*; June 4, 1881, *And'w Hale*.
69. Objection not being made by donation claimant to subsequent settlement, and notification by another on the same land taken as evidence of abandonment by original claimant, and his claim canceled.
Com'r. (D.) Aug. 12, 1882, *B. Soden*; Aug. 24, 1882, *J. M. Mitchell*.

Oregon donations—Continued.

70. Orphans whose parents died in Oregon in July, 1850, having acquired no rights under the act of Sept. 27, 1850, are not entitled to claim donation under the 5th section of the act of July 17, 1854.

Com'r. (D.) Jan. 14, 1881. Mrs. Ladd *née* Cavenaugh.

71. Orphans, claiming as such, are not entitled to donation, where the parents died before reaching Oregon.

Com'r. (D.) Dec. 5, 1880. Sam'l S. Johnson. Sec'y. Dec. 21, 1880.

72. Orphans whose parents never became residents of Oregon Territory, or of that part since constituting Washington Territory, cannot take donation under act of Sept. 27, 1850 and supplementary legislation.

Com'r. (D.) June 21, 1881. Orphan children of Wm. Clark.

73. Patent to heirs, under section 4, Oregon donation act, presupposes that the Land Dep't found that the settler left no children, and cannot be affected in action at law.

Cutting *v.* Cutting *et al.*, 6 Saw., C. C., 396.

74. Patent fraudulently procured under Oregon donation act can be corrected in equity.

Stephens *v.* Sharp, 6 Saw., C. C., 113; Bear *v.* Luse, 148.

Id.

75. Party making notification, proving residence, &c., for required term and receiving patent for the land claimed, though (*semble*) less than the quantity to which he might have been entitled, cannot have second donation.

Com'r. (D.) Aug. 11, 1881, B. Vannater; Oct. 3, 1882, D. Layfield.

76. Proof of right to initiate donation claim notified on, being wanting, notification canceled.

Com'r. (D.) June 30, 1882, W. W. Hicks.

77. Residence and cultivation, consisting of irregular occupancy of a small house, and cultivation for one summer, of a small garden, on claim, not a sufficient compliance with donation act, and claim canceled.

Com'r. (D.) July 25, 1882. Wm. T. Bingham.

78. Residence, &c., by a minor, during his minority, does not count towards the term of residence and cultivation required by the act of 1850.

Com'r. (D.) Feb. 16, 1881. Wm. O. Jasper.

79. Rights of donation claimant dying before completion of required term of residence, under act of Sept. 27, 1850, descended to his heirs at law, including his widow. Notification by the widow for the claim in her own name is erroneous.

Com'r. (D.) May 6, 1881. Sarah A. Bowman.

80. The father having been killed by Indians before reaching Oregon, the mother arriving there a widow, and receiving the benefits of the provision of the 8th section of the act of 1853, the children are not entitled to donation under the 5th section of the act of July 17, 1854.

Oregon donations—Continued.

- Com'r. (D.) July 1, 1880. Widow and children of Walter Perry.
 Sec'y. Mar. 11, 1881.
81. The widow of one who died without becoming a resident of Oregon, cannot claim, as widow, any of the benefits of the act of Sept. 27, 1850.
 Com'r. (D.) June 18, 1883. Mrs. Brewer.
 Sec'y. June 29, 1882.
82. The widow of a donee who dies after four years' residence and cultivation, but before final proof, is entitled to half in fee and dower in the other half, which descends to the children.
Love v. Love, 8 Oregon R., 23.
83. Town site abandoned, may be taken up as donation.
Bear v. Luse, 6 Saw., C. C., 148.
84. Where a donation claimant filed notification upon a specified tract and made preliminary proof, and subsequently filed on a different tract, made preliminary and final proof thereon and received patent therefor, the former notification will be canceled.
 Com'r. (D.) April 13, 1881, E. W. Watson; May 23, 1881, P. V. Crawford; June 4, 1881, And'w Hale; June 11, 1881, R. Filkins; Dec. 17, 1881, W. S. Holloway; June 26, 1882, J. T. Lovelace; Oct. 3, 1882, D. Layfield.
85. Where the father died a non-resident of Oregon, prior to 1850, and the mother emigrated to Oregon in 1852, and died in Oct. of that year, there is no provision of law whereby the orphan child can claim a donation of land.
 Com'r. (D.) June 7, 1882, J. A. Butts.

Patent:

86. Of a private claim confirmed by Congress, must follow, as to the party patentee, the act of confirmation.
 Com'r. (D.) Aug. 10, 1881. Town of Anton Chico, N. M.
87. Can only issue as to the party patentee in conformity with the confirmation.
 Com'r. (D.) Mar. 21, 1882. Heirs of Thos. Fitch.
88. The act of June 16, 1880, does not authorize the issuing of patent for the land confirmed thereby, but is itself in the nature of a patent or deed conveying a quitclaim title to the tract described. R. S. 2447 not applicable to the case.
 Com'r. (D.) Oct. 20, 1882. John Hepting *et al.*
89. The Department has authority to recall a patent, and set aside prior proceedings resulting therein, upon a proper showing, upon a case being made out to give jurisdiction, and nothing else.
 Sec'y. Mar. 2, 1882. Chauvin case.
90. The rule (as to recall of a patent) applies as well to decisions upon surveys as to decisions in other matters.
- Id.*
91. There is no authority of law for the issue of patents upon locations made with Supreme Court scrip, prior to the passage of the act of Jan. 28, 1879.
 Com'r. (D.) Oct. 13, 1881.

Patent—Continued.

92. Where contending parties in interest claim delivery of patents issued on a confirmed private claim, it will be withheld until the legal right to its possession is re-established. If, however, its use becomes essential in a litigation, it may be placed with a responsible person in trust for that purpose, and for delivery to the party finally shown to be entitled thereto.

Com'r. (D.) Mar. 20, 1882. Cañon del Agua, N. M.

Payment for surveys :

93. The act of March 3, 1875, repealing the provisions of the act of May 3, 1862, as to the surveys of private land claims, repealed also R. S. 2400; but such repeal does not exempt claimants from paying for surveys made prior thereto.

Sec'y. Apr. 2, 1879, 8 C. L. O., 9.

94. The act of July 31, 1876, lays down a general and permanent rule regarding payment for costs of surveys, but was not intended to be retroactive.

Id.

Practice :

95. A question in a case pending should not be held, on application *ex parte*, to be determined by a decision of apparently the same question in another case; but the party ostensibly adversely affected by such decision should be allowed a full trial and hearing in the pending case, with right of appeal, &c.

Sec'y. July 25, 1882. Part of Rancho Napa (Frank).

96. A reinvestigation will be denied where the applicants have not shown cause, either as to the proceedings had, their own laches, or the merits involved, for opening the case.

Com'r. Mar. 15, 1882. Town of Tecolote, N. M.

97. Newly discovered evidence, to justify a rehearing, must be such as reasonable diligence could not have procured at the hearing, and material, going to the merits, not merely cumulative, and such as would on a rehearing produce an opposite result.

Sec'y. Mar. 2, 1882. Chauvin case.

98. When a Secretary, going out of office, leaves a decision on record, his successor cannot lawfully overturn it, except on such new evidence as would sustain a bill of review in chancery, or justify a new trial in a court of law.

Id., 9 Opinions Atty. Gen'ls., 101.

99. Where all the questions presented have been considered in previous adjudication, and no sufficient reasons are shown for changing the conclusion found thereon, rehearing will be denied.

Com'r. (D.) Dec. 8, 1881. Las Virgenes.

Sec'y. May 8, 1882.

100. Where parties not adversely affected by a survey did not appear upon its publication, and subsequent proceedings for an investigation are directed which may produce a possible

Practice—Continued.

conflict with their claimed rights, they are "parties in interest" to be notified, and have the right to appear upon such investigation, produce testimony, &c.

Sec'y., July 14, 1880. Santiago de Santa Ana, 8 C. L. O., 41.

Pueblo Indians:

101. Of New Mexico were citizens of Mexico, and their rights as such were guaranteed by the treaty of cession; they now hold the same relation to the United States that they did to the former Government; are not Indian tribes, and no action lies under the intercourse act of 1834 for settling on their lands; their rights and remedies being the same as those of other citizens.

U. S. v. Santistevan, 1 N. M. R., 833.

102. The pueblo of Cochiti and other pueblos of New Mexico had an indefeasible title to their lands at the date of the treaty of Guadalupe Hidalgo, which is guaranteed by the treaty, and which they can assert and protect in the courts, the same as other land owners.

U. S. v. Lucero, 1 N. M. R., 422.

Publication (of surveys):

103. When a survey was duly published under the act of June 14, 1860, and not ordered into the United States district court, it became final; a subsequent publication under the act of July 1, 1864, was of no effect, and the Land Department had no jurisdiction to determine as to exceptions filed under it.

Com'r. (D.) April 2, 1881. Arroyo del Rodeo.

104. Where segregation of a private claim was partially made under the act of July 23, 1866, the survey was properly published under the act of July 1, 1864.

Com'r. (D.) Feb. 18, 1881. Paso de Bartolo.

105. Where the claim was confirmed to A for the divided half of 500 varas square, but surveyed and published as if confirmed to B for the whole, the publication was a nullity, and a new survey and publication directed.

Com'r. (D.) Aug. 2, 1882. W. P. Dorsey.

106. The surveyor general's certificate of the publication of a survey is the proper and usual evidence of the fact certified, and cannot be overcome by proof in its character uncertain and inferential.

Com'r. (D.) Feb. 25, 1881. Rincon de las Salinas.

Reservation:

107. All lands within the claimed limits of a confirmed Mexican grant are in a state of reservation until such grant has been finally surveyed, and the survey approved by the Land Department, and are not subject to location of Valentine scrip or other form of entry.

Com'r. (D.) Feb. 7, 1880. Corte de Madera del Presidio.

Reservation—Continued.

108. The lands within the limits of a claimed Mexican grant in Arizona, reported against by surveyor general, and withdrawn by claimant from Congress, before action upon it, but not abandoned; held in reservation awaiting action upon said claim.

Com'r. (D.) Sept. 15, 1881. Paso de los Algodones.

109. For Government use, out of a confirmed claim under a Mexican grant, is unauthorized. The United States never had title. The land desired must be procured by purchase or condemnation.

Sec'y. April 20, 1880. Punta de la Concepcion, 7 C. L. O., 70.

Selection:

110. Of quantity within limits containing larger quantity, though granted to claimants as a privilege, is necessarily within the control of the Land Dep't.

Com'r. (D.) Nov. 20, 1880. Boca de Santa Monica.

111. Of quantity within a tract of larger area is within the control of the Land Dep't, as against the selection of a location by the confirmee.

Sec'y. Feb. 17, 1882. San Jacinto Nuevo y Potrero.

112. Where land within exterior boundaries was purchased in good faith and patented to purchaser by the United States, the private claim being erroneously supposed to be satisfied by a previous location, its subsequent location not allowed to include the land so patented, there being ample space remaining within the limits to satisfy the private claim.

Com'r. (D.) Sept. 17, 1881.

Sec'y. Nov. 19, 1881; Feb. 17, 1882.

Id.

113. Where patent is to issue for a tract within limits containing larger quantity, the party in interest may select the location; to be in compact form and to include the settlement of original claimant.

Com'r. (D.) April 10, 1882. James and Dennis Quinnilty.

Stare decisis:

114. The rule of, is well known and recognized in the Dep't. A review of its decisions will not be entered upon, except in accordance with the general principles governing rehearings, &c., in the courts.

Sec'y. July 25, 1882. Corte de Madera del Presidio.

Succession sales:

See *Private land claims*, (surveyors general's scrip,) No. 122.

Supreme Court scrip:

115. Assignment of, in blank, not allowed as sufficient to transfer title and right to locate.

Com'r. (D.) Dec. 6, Dec. 7, 1880; Jan. 28, Feb. 1, July 25, Sept. 14, Oct. 23, 1882.

Supreme Court scrip—Continued.

116. Discrepancy in name of assignee and applicant to locate, required to be explained, and latter party to be identified as holder of the scrip.
Com'r. (D.) Dec. 7, 1880; Aug. 16, 1881; July 19, 1882.
117. Issued to claimants in satisfaction for lands disposed of by the United States within surveyed limits of their private land claim, cannot be delivered until the cost of survey of such claim has been paid to the United States.
Com'r. (D.) Aug. 5, 1882. Legal rep's of Peree Dolet.
118. Issued in satisfaction of a claim belonging to several parties, cannot be partitioned among them by officers of Land Dep't. Belonging to them in common, it must be received by all unitedly, or by some one duly authorized by all.
Id.
119. Name of alleged assignee written upon an erasure; claimant under the assignment required to show his right and account for the erasure.
Com'r. (D.) Dec. 7, 1880; June 28, 1881; July 19, July 20, 1882.
120. When received in payment of pre-emption claims the same commissions are chargeable as in case of military bounty-land warrants.
Act'g Com'r. (D.) April 14, 1881. 8 C. L. O., 38.
121. When used otherwise than in payment upon pre-emptions and commutation of homestead claims, no fees or commissions are chargeable.
Id.

Surveyor general's scrip:

122. Claim for, in Louisiana, where the land had not been identified, but the claim sold in succession proceedings as to the cost of administration, it not being shown that there were either debts or heirs, will not be recognized.
Com'r. (D.) Oct. 4, 1882, David Devor. And see Sec'y's decision case of Joshua Garrett, Feb. 28, 1880, G. L. O. Report, 1880, p. 196.
123. Requisites to its issue, authentication, delivery, &c.
Com'r. (D.) Sept. 29, 1880. G. J. Clark.

Surveys:

124. Approved and carried into patent, the power of the Land Department, as to the segregation of the private claim, is exhausted. Corrections desired on account of mistakes or frauds must be sought in the courts.
Com'r. (D.) Sept. 30, 1882. Casmalia.
125. Concurred in by the Government and the claimant, which mutually concluded both parties, never having been set aside nor invalidated, is such a one as the law requires, and the claim stands before the Department as if patent had been issued thereon and accepted by the parties entitled thereto.
Sec'y. Mar. 2, 1882. Chanvin case.

Surveys—Continued.

126. Extension of the *township lines* on a private claim is a sufficient "extension of the lines of the public surveys" over the same, under the eighth section of the act of July 23, 1866. The segregation directed by said act is made by running the lines of the adjoining and bounding subdivisions.

Com'r. (D.) Feb. 18, 1881. Paso de Bartolo.

127. Of a confirmed Mexican grant in California, is properly made by adopting the previous legal surveys of adjoining private claims and the subdivision lines of the public surveys, made with reference to setting off and partially bounding the area of such grant.

Id.

128. Of a private land claim in California, must follow the decree of confirmation as closely as practicable, without regard to conflicting claims.

Com'r. (D.) May 25, 1882. Santiago de Santa Ana.

129. Of a private land claim, is an independent proceeding; the area included depending upon its own measurements, having no relation to the township surveys, which are simply made to close upon it.

Com'r. (D.) Aug. 27, 1880. Los Vallecitos de San Marcos.

130. Of claim of heirs of J. Hutchinson, Florida, confirmed for 2,000 acres, surveyed for all of Hutchinson's Island, 7,780 acres. Survey ordered to be reduced to area of confirmation.

Com'r. (D.) Mar. 18, 1881.

131. Ordered on erroneous translation of title description, directed to be amended to accord with corrected description.

Com'r. (D.) July 22, 1881. Town of Chilili, N. M.

Sec'y. July 29, 1881.

132. To be legally effective must be based upon lines actually run or established by triangulation in the field, by the officer who makes the survey.

Sec'y. Dec. 31, 1879. Corte de Madera del Presidio.

133. The statute of 1864 contemplated a settlement of all questions touching extent and boundaries, upon presentation of objections to first survey, upon the publication thereof, and thereafter objections could not be introduced.

Sec'y. July 28, 1882.

Id.

134. The decision of the Department on appeal, in case of a contested survey, is final. If requiring a new survey, conforming to specific boundaries, such requirement must be held to embody the law governing the survey, the execution of which becomes a mere ministerial act.

Id.

135. Under the special act of July 19, 1878, of the land confirmed under said act, required to be published under the act of July 1, 1864, and finally approved by Commissioner before patent.

* Com'r. (D.) July 13, 1882, Las Cruces.

Surveys—Continued.

136. When dis't. court ordered a survey into court, under act of June 14, 1860, its jurisdiction continued over it, and new survey, &c., until the question of location was finally disposed of.

U. S. v. Castro, 5 Saw., C. C., 625.

PROOF, (BURDEN OF.)

See *Mines, &c.*, (protestant,) No. 193.

PROOF AND PAYMENT.

See *Pre-emption*, No. 112, *et seq.*; (forfeiture,) No. 64; (hearing), No. 69; (notice,) No. 80; (Osage T. & D. R. lands,) No. 91; (town site,) No. 159.

PROPRIETOR.

See *Pre-emption*, Nos. 117, 118.

PROPRIETORSHIP.

See *Pre-emption*, No. 119.

PROTEST.

See *Mines, &c.*, Nos. 189, 190, 191.

PROTESTANT.

See *Mines, &c.*, Nos. 192, 193.

PUBLICATION.

See *Mines, &c.*, No. 194, *et seq.*

Public Lands, (notice,) Nos. 262, 263, 265.

Private Land Claims, (construction,) No. 17; (survey,) No. 133; (act of July 19, 1878,) No. 135.

PUBLIC LANDS.—DIVISION C.

Abandonment :

See *Public lands*, (relinquishment,) No. 314.

Acts of Congress :

Construction of sundry.

See *Public lands*, (construction,) No. 72, *et seq.*

Additional homesteads :

1. While a qualified party cannot take more than the maximum quantity, he may take less, and his election to do so will be a waiver of further claim under R. S. 2306.

Sec'y. March 30, 1880, 7 C. L. O., 67.

2. When filing for less than maximum quantity, under misapprehension of the homesteader, is not a waiver of further claim.

Id.

3. Made under act March 3, 1879, no credit for period of settlement prior to entry is allowed.

Com'r. (C.) Nov. 27, 1880. John Casson *et al.*, 8 C. L. O., 35.

Additional homesteads—Continued.

4. Under act March 3, 1879, patent cannot issue on, until the party has resided upon and cultivated at least one year from date of new entry.
Act'g Com'r. (C.) June 10, 1881. Frank Buffmire, 8 C. L. O., 56.
5. A homestead claimant, notwithstanding his original homestead entry was changed to cash entry, under act June 15, 1880, may make an, under act March 3, 1879.
Act'g Com'r. (C.) July 1, 1881. Edmund D. Sewall, 8 C. L. O., 72.
6. Soldiers' additional, residence required.
Com'r. (C.) Aug. 22, 1881. To R's. and R's., 8 C. L. O., 88.
7. Provisions of act March 3, 1879, regarding issue of patents on. Period of one year required in the matter of residence and cultivation.
Com'r. (C.) March 1, 1882. Joseph Sharp, 9 C. L. O., 6.
8. The right of a soldier making homestead entry under circumstances stated, carries with it right to an additional entry; provided.
Com'r. (C.) Feb. 16, 1882. Henry Booth, 9 C. L. O., 59.
9. In view of party's good faith, additional entry allowed under act March 3, 1879, notwithstanding original entry was made March 14, 1879.
Com'r. (C.) May 5, 1882. Louis Christiansen, 9 C. L. O., 60.
10. Case of an application for, not allowed where original entry of eighty acres made several months after passage of act March 3, 1879, and no restriction to eighty acres.
Com'r. (C.) July 17, 1882. James S. Crist, 9 C. L. O., 115.
11. Not required that land embraced in, be actually cultivated to crop. Tract embraced in an original and an additional entry considered as compact body. Residence upon a portion of compact body considered residence upon the whole tract.
Com'r. (C.) June 21, 1882. Eben M. Gordon, 9 C. L. O., 148.

Adjoining farm entries:

12. Proceedings in view of ownership of 120 acres, prior to homestead entry of 160 acres more.
Com'r. (C.) April 28, 1882, A. H. M. Saunders, 9 C. L. O., 58.
13. Where, in view of the facts, a homestead entry will be treated as an.
Com'r. (C.) July 19, 1882. Isaac S. Riggs, 9 C. L. O., 96.
14. Residence or settlement on an original farm is not residence on an, prior to entry thereof. Residence required; exception, soldiers and sailors.
Com'r. (C.) July 15, 1882. William C. Field, 9 C. L. O., 115.
15. A party owning an undivided portion (less than 160 acres) of a tract of land, on which he resides, may make an, when.
Com'r. (C.) Sept. 27, 1881. Thomas S. Wetherbee, 9 C. L. O., 148.
16. When may be made by purchaser from an original entryman.
Com'r. (C.) June 17, 1882. R. & R., Jacksonville, Miss., 9 C. L. O., 74.

Administration:

17. Letters of, regarded as sufficient evidence of death.
Com'r. (C.) May 23, 1881. Adolph Leidensticker, 8 C. L. O., 53.

Administrator:

18. Cannot purchase, under act June 15, 1880, the homestead right of a deceased entryman. Right descends to widow, minor orphan children, or heirs.
Com'r. (C.) July 23, 1881. Alexander Low, 8 C. L. O., 72.
19. When shown to be sole heir of deceased timber culture entryman, can relinquish entry.
Com'r. (C.) March 21, 1882. George Taylor, 9 C. L. O., 37.
20. Incompetent to relinquish a timber-culture entry unless authorized by heirs.
Act'g Sec'y. Nov. 9, 1882. Sally Hickok, 2 Rep'r, 154.

Adverse claim:

21. In the presence of an, the cancellation of a homestead entry terminates its existence, and act June 15, 1880, does not apply.
Sec'y. July 18, 1882. George S. Bishop, 9 C. L. O., 95.

Affidavit:

22. Accompanying application to make timber-culture entry of a tract can be accepted although bearing date prior to cancellation of previous entry on same tract, when.
Com'r. (C.) Aug. 23, 1881. David D. Merryman, 8 C. L. O., 141.
23. When the required, is not properly sworn to, homestead application will be denied.
Com'r. (C.) Jan. 17, 1882. Thomas J. Odor, 8 C. L. O., 175.
24. When sworn to on Thanksgiving day in Alabama, no objection to legality of.
Com'r. (C.) Jan. 15, 1882, Joseph Livingston, 8 C. L. O. 191.
25. When a new, may be made by homestead party.
Com'r. (C.) Feb. 6, 1882, Gieske v. Kinilian, 8 C. L. O., 192.
26. Affidavit and application in timber-culture entries cannot be made by an agent or attorney.
Com'r. (C.) May 31, 1882, John E. Cannon, 9 C. L. O., 64.
27. Of contest, when founded on "information and observation," hearing should not be ordered.
Com'r. (C.) May 13, 1882. Schofield v. Cole, 9 C. L. O., 74.
28. Variance between affidavit of contest and notice thereof, when too late for defendant to take advantage of.
Com'r. (C.) Aug. 31, 1881. Gould v. Weisbecker, 9 C. L. O., 151.

Agent:

29. Work done by an, on timber culture entry, inures to benefit of entryman purchaser.
Sec'y. April 1, 1882. Gahan v. Garrett, 9 C. L. O., 63.

Agent—Continued.

30. Cannot make affidavit and application in timber-culture entry for his principal.
Com'r. (C.) May 31, 1882. John E. Cannon, 9 C. L. O., 64.
31. Making false and fraudulent entries—imposition on soldiers.
Com'r. (C.) Nov. 22, 1882, to Geo. H. Gardner, 2 Rep'r, 158.

Alien:

32. A foreigner having made a homestead entry, it is illegal and must be canceled, although he may afterward declare his intention and become a citizen.
Com'r. (C.) Feb. 2, 1881. Patrick Marrion, 8 C. L. O., 191.
See *Public lands*, (naturalization,) No. 257.

Amended entry :

33. Proceedings where homestead claimant has entered, by mistake, a tract upon which his improvements are not located, and the desired tract is in a different land district.
Com'r. (C.) Jan. 30, 1882. George W. Burkett, 8 C. L. O., 192.

Appeal:

34. If not taken in time, the decision of the Com'r. is final.
Act'g Sec'y. July 16, 1881. J. Garaghty, 8 C. L. O., 79.
35. Unless, is taken, the decision of the local officers as to facts is final.
Com'r. (C.) Aug. 15, 1881. Vinson v. Keith, 8 C. L. O., 90.
36. In view of party's diligence, the appeal, though defective in point of time, might be entertained.
Act'g Sec'y. Sept. 30, 1881. John Powers, 8 C. L. O., 178.
37. Time having been given in which to file, the privilege of, cannot be denied.
County of Cass v. Morrison, 28 Minn. R. 257.
Sec'y. May 9, 1882. Wallace v. Boyce, 9 C. L. O. 50.
38. Ten days, in addition to the usual thirty days, allowed for, where notice of local officers' decision is sent by mail.
Com'r. (C.) July 1, 1882. Markers v. Canady, 9 C. L. O., 70.
39. Cannot be taken from decision of the Com'r. relative to orders for hearing and contests.
Sec'y. May 2, 1881. Blair v. Ellsworth, 9 C. L. O., 90.

Application:

40. To make timber-culture entry cannot be made by an agent in behalf of principal.
Com'r. (C.) May 31, 1882. John E. Cannon, 9 C. L. O., 64.
41. Homestead, statutory period for filing, act May 14, 1880.
Com'r. (C.) June 20, 1882. Holst v. Phelps, 9 C. L. O., 75.
42. Party desiring to contest a timber-culture entry must file application to make entry of the land.
Act'g Sec'y. April 14, 1882. Bundy v. Livingston, 2 Rep'r, 154.

Appearance:

43. At a hearing, what is a waiver of irregularity in the notice.
Sec'y. May 3, 1882. Morse v. Payne, 9 C. L. O., 70.

Arkansas:

44. History of Cherokee lands in, 8 C. L. O., 110.

Assignment:

45. Of desert-land entries cannot be recognized.
Com'r. (C.) Feb. 8, 1882. Pedro Sodello *et al.*, 9 C. L. O., 38.
See *Public lands*, (Military bounty-land warrant,) No. 253.

Attorney:

46. Recognition of, and delivery of papers to.
Sec'y's decision, July 22, 1881. Calvin A. Allison, 8 C. L. O., 138.
47. On cancellation of a scrip entry, scrip should be returned to the scrippee, his duly authorized attorney, or to his assignee.
Sec'y. Feb. 3, 1882, 8 C. L. O., 199.
48. Appearance of, in contested case. Rule 101 of Rules of Practice prescribes how it shall be entered.
Com'r. (C.) Nov. 10, 1881. Carduff *v.* Cormack, 9 C. L. O., 9.

Board of equitable adjudication:

49. The jurisdictional rule, that, where a court takes cognizance of any original matter, it draws to its jurisdiction every incidental or necessary question, is applicable to this Board.
Opinion Att'y Gen'l, March 5, 1881. Ruth E. Fulton, 8 C. L. O., 8.
50. Power of, regarding confirmation in homestead cases; final certificates.
Sec'y, Dec. 12, 1881. Circular instructions, 8 C. L. O., 177.
51. In view of equities certain cases may be submitted to.
Sec'y. Dec. 20, 1880. Suspended entries, 9 C. L. O., 35.

Bounty-land warrants:

See *Public lands*, (military bounty land warrants,) No. 253.

Burden of proof:

52. Is upon the plaintiff, in a contested case, to prove his allegations.
Sec'y. Feb. 8, 1882. Flynn *v.* Stiles, 9 C. L. O., 28.

Cancellation:

53. Of homestead entry, when it has no force against a party desiring to purchase under act of June 15, 1880.
Sec'y. June 3, 1882. John W. Miller, 9 C. L. O., 57.
54. In the presence of an adverse claim the cancellation of a homestead entry terminates its existence.
Sec'y. July 18, 1882. Geo. S. Bishop, 9 C. L. O., 95.

Cash entry:

55. In case of assignments of, by married men, the dower rights must be assigned by the wives.
Com'r. (C.) Oct. 20, 1881. T. J. Edwards, 8 C. L. O., 200.
56. May be made, under act June 15, 1880, of land embraced in homestead entry, though entry void at inception.
Com'r. (C.) Aug. 25, 1881. Geo. W. Maughn, 9 C. L. O., 56.

Certificate :

57. Circular instructions regarding final, in homestead cases.

Sec'y. Dec. 12, 1881, 8 C. L. O., 177.

58. Of location of Choctaw scrip, possession, and ownership of,
&c.

Com'r. (C.) July 26, 1882. Campbell Leflore, 9 C. L. O., 137.

Cherokee lands :

See *Public lands*, (Indian lands,) No. 234.

Chippewa half-breed scrip :

See *Public lands*, (Indian scrip,) No. 239.

Choctaw scrip :

See *Public lands*, (Indian scrip,) No. 240.

Church site :

59. Homestead party selling a, and failing to perfect his claim, his
warranty deed is worthless against the Government.

Act'g Com'r. (C.) July 7, 1882, to W. A. Fitzgerald, 9 C. L. O.,
94.

Circular instructions :

60. Hearings to determine character of land, whether mineral or
agricultural.

Com'r. (C.) Dec. 17, 1881, 7 C. L. O., 164.

61. Under act of March 3, 1881, commencement of residence of home-
stead claimants—discretion of Com'r.—climatic reasons.

Act'g Com'r. (C.) Aug. 22, 1881, 8 C. L. O., 20.

62. To registers and receivers, regarding soldiers' additional home-
stead entries—residence required.

Com'r. (C.) Aug. 22, 1881, 8 C. L. O., 88.

63. Act of June 15, 1880, relative to lands reduced in price by
third section, and not heretofore offered at public sale.
(Sec'y's approval.)

Com'r. (C.) Oct. 10, 1881, 8 C. L. O., 121.

64. Regarding making final proof in timber-culture entries. (Sec'y's
approval.)

Com'r. (C.) Feb. 1, 1882, 8 C. L. O., 195.

65. Regarding Miami Indian Reservation in Kansas, under act of
June 27, 1882.

Com'r. (C.) June 29, 1882, 9 C. L. O., 103.

Citizenship :

66. How proved, where homestead party was brought to this coun-
try during infancy.

Com'r. (C.) Feb. 2, 1882. William Miller, 8 C. L. O., 191.

67. Of homestead party, not essential at time of making entry, when
party avails himself of the benefits of act of June 15,
1880.

Com'r. (C.) April 25, 1882. James Harvey, 9 C. L. O., 57.

Colorado :

68. Ute Indian Reservation in, when restored to market, lands will be sold for cash only.

Com'r. (C.) Oct. 26, 1881, to Isaac Mears, 9 C. L. O., 123.

Com'r. of the Gen'l. Land Office :

69. Appeal does not lie from decision of, regarding orders for hearings and contests.

Sec'y. May 21, 1881. Case Blair v. Ellsworth, 9 C. L. O., 90.

Common Indian title :

70. Refers to the reservation title, and is thus distinguished from the aboriginal right of occupancy recognized in the Indians as to the great mass of land originally occupied by them.

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

Commutation :

71. When permitted by homesteader who failed in settlement.

Com'r. (C.) Dec. 31, 1881. John J. McKay, 8 C. L. O., 176.

Construction :

ACT OF MARCH 3, 1857.

72. Permanent Indian reservations—common Indian title—aboriginal right, &c.

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

ACT OF MAY 20, 1882.

73. Does not in terms restrict registers and receivers from perfecting entries, when.

Com'r. (C.) Aug. 3, 1882. Thomas J. Scott, 9 C. L. O., 132.

ACT OF JUNE 14, 1878.

74. Does not limit right of contest to one person or to one contest, nor forbid a second when the first has not been sustained. (On appeal to Sec'y.)

Com'r. (C.) Mar. 3, 1882. Schneider v. Bradley, 9 C. L. O., 64.

75. Requirements of, in a party seeking to contest a timber-culture entry; party contesting must file an application to enter the land, otherwise contest void.

Act'g Sec'y. Nov. 14, 1882. Bundy v. Livingston, 2 Rep'r, 154.

ACT OF MARCH 3, 1879.

76. Patent cannot issue on new or additional entries under, until parties have resided upon and cultivated the land embraced therein at least one year from date of additional entry.

Act'g Com'r. (C.) June 10, 1881. Frank Buffmire, 8 C. L. O., 56.

77. Provisions of, regarding issue of patent on new or additional entries. Act does not prevent payment for land, in what cases.

Com'r. (C.) Mar. 1, 1882. Joseph Sharp, 9 C. L. O., 6.

78. In view of the party's good faith he is allowed an additional entry under, notwithstanding his original entry was made March 14, 1879.

Com'r. (C.) May 5, 1882. Louis Christiansen, 9 C. L. O., 60.

Construction—Continued.

79. An additional entry not allowed under, when.
Com'r. (C.) July 17, 1882. James S. Crist, 9 C. L. O., 115.
80. Does not require that lands embraced in an additional entry, made under, shall be actually cultivated to crop.
Com'r. (C.) June 21, 1882. Eben N. Gordon, 9 C. L. O., 148.

ACT OF MAY 14, 1880.

81. Relinquishment filed before final disposition of contest treated as proof of abandonment, and contestant has preferred right of entry. Act June 15, 1880.
Act'g Sec'y. June 2, 1881. Johnson v. Halweson, 8 C. L. O., 56.
82. Preference right of contestant under, is a personal right and not assignable.
Com'r. (C.) April 17, 1882. Boysen v. Born, 9 C. L. O., 61.
83. Statutory period under, for filing homestead application. Requirements of act.
Com'r. (C.) June 20, 1882. Holst v. Phelps, 9 C. L. O., 75.
84. No preference right attaches under, when; purchase prior to cancellation of entry defeats a contest.
Com'r. (C.) Sept. 6, 1882. John D. Hay, 9 C. L. O., 132.

ACT OF JUNE 15, 1880.

85. Administrator cannot purchase under, the homestead right of deceased entryman; how such right descends.
Com'r. (C.) July 23, 1881. Alex'r Low, 8 C. L. O., 72.
86. Evidence and proceedings under second section of.
Act'g Com'r. (C.) Oct. 29, 1880, to R. & R., at Grand Forks, Dak., 7 C. L. O., 152.
87. The second section of act is independent in its provisions and purposes; it provides for a specific thing without reference to act of May 14, 1880.
Sec'y. Mar. 12, 1881. Gohrman v. Ford, 8 C. L. O., 6.
88. The widow of a deceased settler may sell her right.
Act'g Com'r. (C.) June 3, 1881. David F. Herrington, 8 C. L. O., 56.
89. The right of purchase allowed under, is not a personal one, but descends to the heirs of deceased claimants.
Com'r. (C.) May 31, 1881. A. O. McDonald, 8 C. L. O., 56.
90. Though homestead entry void at inception, land embraced in, may be purchased under.
Com'r. (C.) Aug. 25, 1881. Geo. W. Maughn, 9 C. L. O., 56.
91. Homestead entry illegal on account of alienage of claimant, his widow allowed to purchase under.
Com'r. (C.) May 23, 1882. William H. White, 9 C. L. O., 57.
92. To entitle homestead party to benefits of, not necessary that qualifications as to citizenship should exist at time of making entry.
Com'r. (C.) April 25, 1882. James Harvey, 9 C. L. O., 57.

Construction—Continued.

93. When the fact that a homestead entry has been canceled has no force in connection with said act.
Sec'y. June 3, 1882. John W. Miller, 9 C. L. O., 57.
94. Party can purchase under, when rights of homesteader conveyed by *bona fide* instrument in writing.
Sec'y. April 27, 1882. Thomas F. Weaver, 9 C. L. O., 95.
95. When evidence regarding custom inadmissible—custom—surrender of duplicate receipt.
Com'r. (C.) July 10, 1882. Ella M. Hoyt, 9 C. L. O., 95.
96. In the presence of an adverse claim the cancellation of a homestead entry terminates its existence. Act of June 15, 1880, does not apply. The expression, "homestead laws," in the act is generic, and refers to all vested adverse rights.
Sec'y. July 18, 1882. Geo. S. Bishop, 9 C. L. O., 95.
97. Case covered by, where the deed or transfer was not made until after passage of the law.
Com'r. (C.) July 22, 1882. W. M. Bumpus, 9 C. L. O., 96.
98. Case where option allowed to purchase under—adjoining farm—five years' residence.
Com'r. (C.) July 19, 1882. Isaac S. Riggs, 9 C. L. O., 96.
99. When a deserted wife may purchase under, the land embraced in her husband's homestead entry.
Act'g Com'r. (C.) Aug. 5, 1882. Bray v. Colby, 9 C. L. O., 116.
100. Right of homestead party, appointed a register, to purchase under.
Com'r. (C.) Aug. 3, 1882. Thomas J. Scott, 9 C. L. O., 132.
101. When transfer of a portion of land is no bar to purchase under, of remainder.
Com'r. (C.) Sept. 6, 1882. John D. Hay, 9 C. L. O., 132.

Contest:

102. Application for second, will be rejected when the first is pending against a homestead.
Sec'y. Nov. 16, 1881. G. E. Van Ostrand, 9 C. L. O., 7.
103. Proceedings, when the record of a, has been lost.
Com'r. (C.) May 19, 1882. John Zeigler, 9 C. L. O., 50.
104. Although an entry is subject to, whenever the party is in default, there is no valid reason for subjecting him thereto when the fault has been cured before contest initiated. The honest efforts of an entryman will be guarded against endeavors of unscrupulous parties.
Sec'y. July 24, 1882. Galloway v. Winston, 9 C. L. O., 98.
105. Second, how based; after prior contest dismissed and closed.
Com'r. (C.) Aug. 4, 1882. Charles Barringer, 9 C. L. O., 110.
106. Purchase of land, prior to cancellation of entry, defeats a.
Com'r. (C.) Sept. 6, 1882. John D. Hay, 9 C. L. O., 132.
107. Affidavit of, and notice of; variance between. When too late for defendant to take advantage of variance.
Com'r. (C.) Aug. 31, 1881. Gould v. Weisbecker, 9 C. L. O., 151.

Contest—Continued.

108. Against a timber-culture entry, restricted to; party seeking to make entry of, and filing application for, the land.
Act'g Sec'y. Nov. 14, 1882. *Bundy v. Livingston*, 2 Rep'r, 154.

Contestant :

109. A successful, has thirty days to make entry. In the mean time no one can enter other land in same section as a timber-culture claim.
Sec'y. Mar. 13, 1882. *Wm. Ehmen*, 9 C. L. O., 36.
110. Preferences right of, good, although entry may have been illegal at inception.
Sec'y. Aug. 1, 1882. *Haskins v. Nichols*, 9 C. L. O., 116.
111. Must make application to enter land at time of initiating contest against a timber-culture entry.
Act'g Sec'y, Nov. 14, 1882. *Bundy v. Livingston*, 2 Rep'r, 154.

Contested cases :

112. Notice in, must be given by personal service, when address of defendant is known.
Sec'y. Jan. 13, 1882. *Gulseth v. Samson*, 7 C. L. O., 163.
113. Where two parties apply simultaneously to contest a timber-culture entry, neither having improvements on tract in question, both may be made parties to the contest, and may bid for privilege of making entry.
Sec'y. Feb. 18, 1880. *Theo. Kimm*, 7 C. L. O., 181.
114. By act of May 14, 1880, contestant of a homestead entry has a preference right only on cancellation of entry. Defendant, homestead party, may purchase, under act June 15, 1880, the land contested, and prevent the preference right of contestant from attaching.
Sec'y. Mar. 12, 1881. *Gohrman v. Ford*, 8 C. L. O., 6.
115. Notice of continuance in, proceedings where contest is continued, published notice of contest having been given in first instance.
Com'r. (C.) May 16, 1881, to *Charles L. Truman*, 8 C. L. O., 36.
116. Evidence in, should be confined to the allegations, and judgment rendered only on the questions at issue.
Sec'y. June 9, 1881. *Schelter v. Off*, 8 C. L. O., 53.
117. What must be stated by local officers in the notices of their decisions in.
Com'r. (C.) Aug. 15, 1881. *Vinson v. Keith*, 8 C. L. O., 90.
118. Where second contest initiated prior to termination of first, or final result therein, and homestead entry canceled, as result of first contest, the second contestant has no preference right, &c.
Com'r. (C.) Jan. 13, 1882. *Bennett v. Collins*, 8 C. L. O., 172.
119. Relinquishment of entry contested and filed as evidence in; in order to inure to benefit of contestant, under act May 14, 1880, must have been made before closing of testimony before local officers. Charge abandonment.
Acting Sec'y. Sept. 30, 1881. *John Powers*, 8 C. L. O., 178.

Contested cases—Continued.

120. Relinquishment, filed before final disposition of case, treated as proof of abandonment, and contestant should be notified of preference right. Acts May 14, 1880, and June 15, 1880.
Act'g Sec'y. *Johnson v. Halvorson*, 8 C. L. O., 56.
121. In case of timber-culture entries, contestant's entry takes effect from time it is fully effected, and not from date of initiating contest.
Com'r. (C.) Sept. 15, 1881. *Thomas A. Cheshire*, 8 C. L. O., 195.
122. Rule 101 of Rules of Practice prescribes how attorneys in, should enter appearance.
Com'r. (C.) Nov. 10, 1881. *Case Carduff v. Cormack*, 9 C. L. O., 9.
123. Rights of timber-culture entry contestant; thirty days to enter; meantime no other timber-culture entry can be made in same section.
Sec'y. Mar. 13, 1882. *Wm. Ehmen*, 9 C. L. O., 36.
124. Irregularity of notice in a, cured by the appearance of a party and proceeding without objection to trial.
Sec'y. May 3, 1882. *Morse v. Payne*, 9 C. L. O., 70.
125. Copy of argument in, when appeal taken, to be filed for service, or served on opposing party.
Act'g Com'r. June 2, 1881. 9 C. L. O., 110.
126. Timber-culture entry contested and alleged to have been illegal, in certain respects, at inception, preference right of contestant holds good.
Sec'y. Aug. 1, 1882. *Haskins v. Nichols*, 9 C. L. O., 116.
127. Case where several hearings were had involving abandonment, rehearing, and standing of homestead purchaser.
Sec'y. Sept. 20, 1882. *Weber v. Shappell*, 9 C. L. O., 131.

Courts:

128. Only those having clerks separate and distinct from the judges are competent to naturalize aliens.
Com'r. June 10, 1882. Letter to *J. F. Hechtman, esq.*, 9 C. L. O., 72.

Cultivation:

129. Want of, should not be inferred from the fact that, at the expiration of three years, but few trees are growing on a timber-culture claim.
Com'r. (C.) Jan. 6, 1882. *Cowan v. Woodside*, 9 C. L. O., 37.
130. Where the condition of, under homestead laws, cannot be complied with. Case where a new entry permitted.
Com'r. (C.) May 26, 1882. *Skarstead et al.*, 9 C. L. O., 58.
131. What is not, under the timber-culture laws.
Com'r. (C.) July 1, 1882. *Markers v. Canody* and other cases, 9 C. L. O., 70.
132. Evidence of, required from date of death where homesteader is deceased.
Com'r. (C.) June 24, 1882. *John J. Jones*, 9 C. L. O., 73.
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Custom :

133. Evidence as to what is and what is not, is inadmissible, being irrelevant to the case. Transfer of duplicate receipt. Act June 15, 1880.

Com'r. (C.) July 10, 1882. Ella M. Hoyt, 9 C. L. O., 95.

Death :

134. Party alleging, must prove it. The rule of law in such cases must be respected. Evidence required.

Com'r. (C.) May 23, 1881. Adolph Leidensticker, 8 C. L. O., 55.

Deceased homestead claimant :

135. The heirs of a, allowed to purchase under act of June 15, 1880.

Act'g Com'r. (C.) May 31, 1881. A. C. McDonald, 8 C. L. O., 56.

136. One of the heirs of, should make final affidavit required.

Com'r. (C.) Aug. 6, 1881. Lucinda Hill, 8 C. L. O., 90.

Declaratory statements :

137. In cases of soldiers and sailors, when entries or filings false and fraudulent.

Com'r. (C.) Nov. 22, 1882, to George H. Gardner, 2 Rep'r, 158.

Deed :

138. A warranty, worthless against the Government, when.

Act'g Com'r. (C.) July 7, 1882, to W. A. Fitzgerald, 9 C. L. O., 94.

139. Party purchasing of a homesteader the improvements, right of entry, and possession of the same, and where transfer by *bona fide* instrument in writing is made, can pay Government price for the land, under act of June 15, 1880.

Sec'y. April 27, 1882. Thomas F. Weaver, 9 C. L. O., 95.

Desert land entries :

140. Action regarding extension of time in, suspended until Congress acts in the matter.

Com'r. (C.) Feb. 8, 1882, to local officers, 8 C. L. O., 184.

141. Entries not assignable. Patents will issue only in names of the original parties.

Com'r. (C.) Feb. 8, 1882. Pedro Lodello *et al.*, 9 C. L. O., 38.

Desert lands :

142. In the desert-land act the intendment of the statute is to provide for the reclamation of such lands from their desert condition to an agricultural state.

Reclamation of, the mere conveying of water upon, is not a fulfillment of the law, unless in sufficient quantity to prepare such land for cultivation. Final proof must show that the land has been so reclaimed.

Sec'y. Aug. 2, 1882. Wallace *v.* Boyce, 9 C. L. O., 120.

Deserted wife:

143. When considered the head of a family, notwithstanding the return of the husband.
Com'r. (C.) June 9, 1882. Sarah E. Pierce, 9 C. L. O., 73.
144. When a, may purchase under act of June 15, 1880, the land embraced in her husband's homestead entry, notwithstanding certain contest.
Act'g Com'r. (C.) Aug. 15, 1882. Bray v. Colby, 9 C. L. O., 116.

Devisee:

145. When the, of a homestead claimant is entitled to all the privileges that would descend to the heirs.
Com'r. (C.) Feb. 10, 1882. H. C. Dodge, 8 C. L. O., 193.

Dower right:

146. How assigned—cases of married men—assignment of duplicate cash receipts, &c.
Com'r. (C.) Oct. 20, 1881. T. J. Edwards, 8 C. L. O., 200.

Drought:

See *Public lands*, (final proof,) No. 175; (requirements,) No. 327; (timber culture,) No. 398.

Duplicate receipt:

See *Public lands*, (receipt,) No. 304.

Eighty acres:

147. Where the excess above is less than one acre the fee is only \$5, not \$10.
Act'g Sec'y. August 8, 1881. Alcide Guidney, 8 C. L. O., 157.

Entryman:

148. The honest efforts of an, will be guarded, when—contested case.
Sec'y. July 24, 1882. Galloway v. Winston, 9 C. L. O., 98.

Entry:

149. Homestead, void at inception, land may be purchased under act of June 15, 1880.
Com'r. (C.) Aug. 25, 1881. Geo. W. Maughn, 9 C. L. O., 56.
150. Homestead, illegal at inception on account of alienage of claimant, widow allowed to purchase land under act June 15, 1880.
Com'r. (C.) May 23, 1882. William H. White, 9 C. L. O., 57.
151. When cancellation of a homestead does not operate against a party desiring to purchase under act of June 15, 1880.
Sec'y. June 3, 1882. John W. Miller, 9 C. L. O., 57.
152. Statement of proof required in a homestead when heirs of deceased homestead party apply to make final proof.
Com'r. (C.) May 11, 1882. Johnson Dittmer, 9 C. L. O., 58.
153. Adjoining farm, proceedings in view of ownership of 120 acres prior to homestead entry of 160 acres more.
Com'r. (C.) April 28, 1882. A. H. M. Saunders, 9 C. L. O., 58.

Entry—Continued.

154. Preference right of contestant under act May 14, 1880, to make, not assignable.
Com'r. (C.) April 17, 1882. *Boysen v. Born*, 9 C. L. O., 61.
155. On a timber-culture, work done by vendor or agent inures to benefit of entryman purchaser.
Sec'y. April 1, 1882. *Gahan v. Garrett*, 9 C. L. O., 63.
156. In case of deceased party, the order stated in which patent may issue regarding a homestead.
Com'r. (C.) June 24, 1882. *John J. Jones*, 9 C. L. O., 73.
157. Where a timber-culture, transmuted to a homestead, on same tract—credit given for residence.
Com'r. (C.) June 7, 1882. *Torjus H. Flom*, 9 C. L. O., 79.
158. When the purchaser of a homestead has no standing in a contest, is deemed a stranger, and without right of appeal from decision of the Commissioner.
Sec'y. Sept. 20, 1882. *Weber v. Shappell*, 9 C. L. O., 131.
159. Relinquishment of a homestead, for the purpose of entering tract under timber-culture laws; tract open to entry by first legal applicant.
Com'r. (C.) Sept. 5, 1882. *Banks v. Smith*, 9 C. L. O., 130.
160. Transfer of a portion of a homestead, by a *bona fide* instrument in writing, no bar to a purchase of remainder under act June 15, 1880.
Com'r. (C.) Sept. 6, 1882. *John D. Hay*, 9 C. L. O., 132.
161. Made before location of railroad line under act of Mar. 3, 1863, granting lands to Kansas in aid of railroads, but abandoned after such location, did not except the land from the railroad grant.
Emil v. Young, 24 Kan. R., 732.
162. With forged scrip, patent issued, but not delivered, and on discovery of forgery canceled; locator permitted to re-enter the land, but held to have acquired neither title nor equity by former entry.
Reynoles v. County of Plymouth, 55 Iowa R., 90.
163. At local offices in the seceding States, made after the rebellion commenced and not reported to the United States authorities, not recognized.
Sec'y. June 21, 1880. *Isaac C. Hicks*, 7 C. L. O., 71.
164. A homesteader between making entry and perfecting title may unite with another as partner in building a mill on the land, giving him an interest in the mill, and its profits for his advances to build it, without violation of the homestead act.
Hot Springs R. R. Co. v. Taylor, 36 Ark. R., 205.

Equity:

165. When it may be invoked to relieve against unusual hardships.
Sec'y. Dec. 20, 1880. *Suspended entries*, 9 C. L. O., 35.

Error :

166. Regarding name in patent, procedure to rectify.
Com'r. (C.) June 15, 1882. Alexander Chaboillez, 9 C. L. O., 84.
167. Homestead entry is not illegal when, through error, dwelling house erected upon a different tract from that entered.
Sec'y. Feb. 12, 1881. P. Higgins, 7 C. L. O., 179.
See *Public lands*, (amended entry,) No. 33; (patent,) No. 275.

Evidence :

168. What, required in proof of death of homesteader.
Com'r. (C.) May 23, 1882, to R. & R., Denver, Colo., 8 C. L. O., 55.
169. Relinquishment as, of abandonment, to inure to benefit of contestant, must be made before closing of testimony taken before local officers.
Acting Sec'y. Sept. 30, 1882. John Powers, 8 C. L. O., 178.
170. Required in case of homestead entry made by qualified soldier, deceased, after making entry.
Com'r. (C.) Feb. 28, 1882. Owen Calton, 8 C. L. O., 192.

False and fraudulent entries :

171. What are deemed, in soldiers' and sailors' cases; declaratory statements filed by agents.
Com'r. (C.) Nov. 22, 1882, to Geo. H. Gardner, 2 Rep'r, 158.

Father :

172. A, as heir, can complete the timber-culture entry of his deceased son.
Com'r. (C.) Jan. 6, 1882. Cowan v. Woodside, 9 C. L. O., 37.

Fees :

173. And charges of local officers. Instructions in regard to.
Com'r. (C.) Jan. 27, 1881, to R. & R., Shasta, Cal., 7 C. L. O., 186.
See *Public lands*, (eighty acres,) No. 147; (registers and receivers,) Nos. 307, 308.

Final certificate :

174. Circular instructions regarding homestead.
Sec'y. Dec. 12, 1881, 8 C. L. O., 177.

Final proof :

175. Where party is absent, under act of June 4, 1880, on account of severe drought, and the required five years' period expires during such absence, final proof may be made as though claimant were actually residing upon the land claimed.
Com'r. (C.) Nov. 3, 1881. Martin A. Adams, 8 C. L. O., 121.
176. Proceedings in making, under act of May 14, 1880.
Com'r. (C.) Nov. 7, 1881. W. C. Latimer, 8 C. L. O., 122.
177. What, must show regarding minor children in case of death of homestead party.
Com'r. (C.) Jan'y 13, 1882. Sarah Leonards, 9 C. L. O., 6.

Final proof—Continued.

178. Parties authorized to make, in timber-culture entries, can relinquish entries.
Com'r. (C.) March 21, 1882. Geo. Taylor, 9 C. L. O., 37.
179. Protest against, what considered as proceedings in such cases.
Com'r. (C.) May 29, 1882. State of Nevada *vs.* Brazzanorich, 9 C. L. O., 51.
180. Statement of proof required in case of deceased homestead claimant, where heirs apply to make final proof.
Com'r. (C.) May 11, 1882. John Dittmer, 9 C. L. O., 58.
181. In desert-land entries, what it must show.
Sec'y. August 2, 1882. Wallace *vs.* Boyce, 9 C. L. O., 120.
182. In homestead cases, should be *completed* within the seven years.
Sec'y. April 14, 1881. Christy *v.* Siegel, 9 C. L. O., 149.

Forcible intrusion :

183. Review of several decisions touching the application of decisions in the cases of Atherton *v.* Fowler and Hosmer *v.* Wallace, to public-land cases.
Com'r. (C.) March 31, 1881. Nickals *v.* Burbank *et al.*, 8 C. L. O., 57.

Foreigner :

See *Public lands*, (alien,) No. 32; (naturalization,) Nos. 257, 258.

Gallihier, Maria :

184. Decision in case of, declared to have been inadvertent.
Sec'y. June 3, 1882. John W. Miller, 9 C. L. O., 57.

General Land Office :

See *Land department*, No. 10, *et seq.*

Head of family :

See *Public lands*, (deserted wife,) No. 143.

Hearings :

See *Public lands*, (contested cases,) No. 127.

Heirs :

185. Of deceased homestead claimant, right of purchase allowed to, under act June 15, 1880.
Com'r. (C.) May 31, 1881. A. C. McDonald, 8 C. L. O., 56.
186. Final affidavit in homestead cases should be made by one of the, in case of death of claimant.
Com'r. (C.) August 6, 1881. Lucinda Hill, dec'd, 8 C. L. O., 90.
187. In case of death of timber-culture claimant a *relinquishment* of the entry must be the act of the.
Com'r. (C.) August 6, 1881. Charles King, 8 C. L. O., 93.
188. The provisions of law regarding minor children cannot be defeated by homestead party making a will.
Com'r. (C.) Jan'y 13, 1882. Sarah Leonards, 9 C. L. O., 6.
189. Under the timber-culture laws, a father, as heir, can complete the entry of his deceased son.
Com'r. (C.) Jan'y 6, 1882. Oowan *v.* Woodside, 9 C. L. O., 37.

Heirs—Continued.

190. How, may relinquish timber-culture entry.
Com'r. (C.) March 21, 1882. Geo. Taylor, 9 C. L. O., 37.
191. Where the, apply to make final proof-case of deceased homestead claimant—statement of proof required.
Com'r. (C.) May 11, 1882. Johann Dittmer, 9 C. L. O., 58.

Homestead claimant:

192. Under act May 14, 1880, the, of unsurveyed land is placed in same position as a pre-emption claimant regarding placing claim on record, notwithstanding appropriation of land by a prior homestead entry.
Com'r. (C.) Dec. 4, 1880. Esrey v. Glenn, 7 C. L. O., 148.
193. On unsurveyed land, not obliged to make entry until tracts embraced in his claim are surveyed and plats thereof returned to local office.
Com'r. (C.) Feb. 9, 1881, to R. & R., Los Angeles, Cal., 8 C. L. O., 7.
194. Declaratory statement of, should be accompanied by his affidavit, that he has not made a prior homestead filing or homestead entry.
Act'g Com'r. (C.) April 7, 1881, to R. & R., Watertown, Dak. Ty., 8 C. L. O., 7.
195. Proceedings when register has good reasons for believing that application of a, not made in good faith.
Com'r. (C.) May 21, 1881, to R. & R., Ironton, Mo., 8 C. L. O., 35.
196. To additional entry, under act of March 3, 1879. No credit for period of settlement prior to entry is allowed.
Com'r. (C.) Nov. 27, 1880. John Casson, 8 C. L. O., 35.
197. Duly qualified, may make an additional entry under act March 3, 1879, notwithstanding his original was changed to cash entry under act June 15, 1880.
Act'g Com'r. (C.) July 1, 1881. Edward D. Sewall, 8 C. L. O., 72.
198. Proceedings of a, to, protect his interest when absent from his land on account of illness and cannot return thereto.
Com'r. (C.) August 17, 1881. Louisa C. Rothweiler, 8 C. L. O., 90.
199. Settling on land covered by an uncanceled prior entry, cannot be credited with time such prior entry remained uncanceled after his settlement.
Com'r. (C.) August 10, 1881. Michael McVey, 8 C. L. O., 92.
200. On timber lands, liable to prosecution for removing and selling timber before making final proof on his entry.
Com'r. (C.) August 4, 1882. Miles Borden, 8 C. L. O., 92.
201. Brought to this country during infancy, how his citizenship must be shown.
Com'r. (C.) Feb. 2, 1882. William Miller, 8 C. L. O., 191.
202. Having no other recognized home than entry land—liberal construction, act of 1862.
Sec'y. June 23, 1882. Edwards v. Sexson, 9 C. L. O., 72.

Homestead claimant—Continued.

203. Deceased—the order stated in which patent may issue—will.

Com'r. (C.) June 24, 1882. John J. Jones, 9 C. L. O., 73.

204. Failing to make entry in time, though living on the land, may file as a pre-emptor, and defeat an adverse homestead entry.

Com'r. (C.) June 16, 1882. Duncan v. Campbell, 9 C. L. O., 74.

Homestead entry :

205. Under act of May 14, 1880, homestead claimant of unsurveyed land placed in same position as pre-emption claimant regarding placing claim on record, &c., notwithstanding the fact that the land has been appropriated by a prior homestead entry.

Com'r. (C.) Dec. 4, 1880. Esrey v. Glenn, 7 C. L. O., 148.

206. Alleged abandonment of a, cured by purchase of tract, under act June 15, 1880, at any time prior to cancellation of entry.

Sec'y. Mar. 12, 1881, Gohrman v. Ford, 9 C. L. O., 6.

207. Homestead settler on unsurveyed land not obliged to make entry until all tracts embraced in his claim surveyed and plats thereof returned to or filed in local office.

Com'r. (C.) Feb. 9, 1881, to R. & R., Los Angeles, Cal., 8 C. L. O., 7.

208. A homestead declaratory statement should be accompanied by claimant's affidavit that he has not made a prior homestead filing, or.

Act'g Com'r. (C.) April 7, 1881, to R. & R., Watertown, Dakota T'y, 8 C. L. O., 7.

209. Rejection of application for a—proceedings when the register has grounds for believing application not made in good faith.

Com'r. (C.) May 21, 1881, to R. & R., Ironton, Mo., 8 C. L. O., 35.

210. A new, under act March 3, 1879, may be allowed, notwithstanding a settlement on the land embraced in original entry was not made—privilege allowed by law unconditional.

Com'r. (C.) Mar. 26, 1881. Anton Razer, 8 C. L. O., 35.

211. Final commissions on, how computed.

Act'g Com'r. (C.) June 1, 1881, to R. & R., Jackson, Miss., 8 C. L. O., 55.

212. Transmittal of proof on—instructions.

Act'g Com'r. (C.) June 15, 1881, 8 C. L. O., 55.

213. Proof of death of homestead party—evidence required.

Com'r. (C.) May 23, 1881. Adolph Seidensticker, 8 C. L. O., 55.

214. Proceedings of homesteader to protect his interest where absent from his land on account of illness and cannot return thereto.

Com'r. (C.) Aug. 17, 1881. Louisa C. Rothweiler, 8 C. L. O., 90.

Homestead entry—Continued.

215. Claimant settling on land covered by an uncanceled prior entry cannot be credited with the time such prior entry remained uncanceled after his settlement.
Com'r. (C.) Aug. 10, 1881. Michael McVey, 8 C. L. O., 92.
216. Before final proof made on, homestead claimants on timber lands liable to prosecution for removing and selling timber.
Com'r. (C.) Aug. 4, 1882. Miles Borden, 8 C. L. O., 92.
217. When an application to homestead land will be treated as a personal and not an official transaction.
Com'r. (C.) Aug. 26, 1881. A. A. McEllyea, 8 C. L. O., 107.
218. Act of June 15, 1880, will cover a second, when made in good faith, though in ignorance of the law.
Com'r. (C.) Nov. 29, 1881. McNeff v. Newman, 8 C. L. O., 158.
219. Widow's original, when the five years' time required under the law dates from.
Com'r. (C.) Dec. 9, 1881. Margaret Walker, 8 C. L. O., 175.
220. Notice of proof regarding, under act March 3, 1879, should be published in newspapers of good repute nearest the land by the usual traveled routes.
Com'r. (C.) Dec. 19, 1881, to R. & R., Leadville, Col., 8 C. L. O., 177.
221. A foreigner having made a, it is illegal and must be canceled, although he may afterward declare his intention and become a citizen.
Com'r. (C.) Feb. 2, 1881. Patrick Marrion, 8 C. L. O., 191.
222. Where a, is void at inception, land may be purchased under act of June 15, 1880.
Com'r. (C.) Aug. 25, 1881. Geo. W. Maughn, 9 C. L. O., 56.
223. When a, takes date—in view of alleged settlement.
Com'r. (C.) April 26, 1882. Kate Cox, 9 C. L. O., 58.
224. When a new, permitted—land unfit for cultivation.
Com'r. (C.) May 26, 1882. Ludwig P. Skarstad *et al.*, 9 C. L. O., 58.
225. Where lack of water, and in view of facts, a second permitted.
Com'r. (C.) May 4, 1882. Benedict Levin, 9 C. L. O., 58.
226. In every case an actual, personal, continuous residence is not necessary. The act of 1882 should be liberally construed, claimant having no other recognized home.
Sec'y. June 23, 1882. Edwards v. Sexson, 9 C. L. O., 72.
227. In case of death of deceased homestead party, the order stated in which patent may issue.
Com'r. (C.) June 24, 1882. John J. Jones, 9 C. L. O., 73.
228. In what case and how an adverse, may be defeated.
Com'r. (C.) June 16, 1882. Duncan v. Campbell, 9 C. L. O., 74.

Homestead entry—Continued.

229. Unlawful to allow a, in case of one who by his own admission has failed to file in time for land embraced in the subsisting entry of a homesteader. Act of May 14, 1880.

Com'r. (C.) June 20, 1882. *Holst v. Phelps*, 9 C. L. O., 75.

230. Case where a, in view of certain facts, treated as an adjoining farm entry.

Com'r. (C.) July 19, 1882. *Isaac S. Riggs*, 9 C. L. O., 96.

"Homestead laws":

231. The expression, in act of June 15, 1880, is generic, and refers to all vested adverse rights.

Sec'y. July 18, 1882. *George S. Bishop*, 9 C. L. O., 95.

Ignorance of the law:

232. When excusable, where homestead entry made in good faith. (On appeal to Secretary.)

Com'r. (C.) Nov. 29, 1881. *McNeff v. Newman*, 8 C. L. O., 158.

Indian lands:

233. Kansas trust and diminished reserve. Regarding the use of Kansas scrip and "Stevens scrip" in payment for.

Sec'y. Sept. 5, 1881, to Com'r., 8 C. L. O., 109.

234. Cherokee, in Arkansas. Relative to survey and sale of, and stipulations under treaties of 1828 and 1833.

Recommendations of Com'r. approved by Sec'y. March 19, 1881, 8 C. L. O., 110.

Indian reservations:

235. Permanent, defined.

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

236. What is understood as "reservation held by common Indian title."

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

See *Public lands*, (Miami Indian Reservation,) Nos. 250, 251; (Otoe and Missouri Indian Reservation,) No. 270; (Ottawa and Chippewa Indian Reservation,) No. 271; Sioux and Winnebago Indian Reservation,) No. 350.

Indian scrip:

237. Relative to ownership of, in case of failure of location.

Com'r. (C.) Aug. 10, 1881. *Gardepie v. Blair*, 8 C. L. O., 26.

238. Respecting the use of what is known as Kaw, in payment for Kansas trust and diminished reserve lands, under treaty of March 13, 1862.

Sec'y. Sept. 5, 1881, 8 C. L. O., 109.

239. Chippewa half-breed, relative to ownership of, under certain circumstances.

Sec'y. Feb. 3, 1882, 8 C. L. O., 199.

240. Choctaw—defective scrip location—cash payment may be made, to perfect entry, when. Ownership of scrip in certain case.

Com'r. (C.) July 26, 1882. *Campbell Leflore*, 9 C. L. O., 137.

Instructions :

241. Regarding final commissions in homestead cases; how computed.
Acting Com'r. (C.) June 1, 1881, 8 C. L. O., 55.
242. Regarding transmittal of homestead proof, taken before judge or clerk of court.
Acting Com'r. (C.) June 15, 1881, 8 C. L. O., 55.
243. Regarding soldiers' additional homestead entries, what required in the matter of residence, &c.
Com'r. (C.) Aug. 22, 1881, to R's. & R's., 8 C. L. O., 88.
244. Regarding lands reduced in price by sec. 3, act of June 15, 1880, and not heretofore offered at public sale at minimum price.
Circular, Oct. 10, 1881, 8 C. L. O., 121.
245. Circular of, regarding making of final proof on timber-culture entries.
Circular of Feb. 1, 1882, 8 C. L. O., 195.

Intrusion :

See *Public lands*, (forcible intrusion,) No. 183.

Kansas :

See *Public lands*, (Miami Indian Reservation in,) Nos. 250, 257; Otoe and Missouri Indian Reservation, No. 270.

Legal representatives :

246. The heirs or, of a timber-culture claimant, only can relinquish entry.
Com'r. (C.) March 21, 1882. George Taylor, 9 C. L. O., 37.
See *Public lands*, (administrator,) No. 18, *et seq.*; (devisee,) No. 145; (heirs,) No. 185, *et seq.*

Married woman :

247. A woman having married is not disqualified from making an additional homestead entry under act of March 3, 1879.
Com'r. (C.) Sept. 29, 1881. Eda M. Carnochan *née* Oady, 8 C. L. O., 121.
248. A, cannot acquire title to public land under the timber-culture act of 1878.
Com'r. (C.) Nov. 30, 1881, 8 C. L. O., 158.
249. Dower right of—how assigned; cases of married men; assignment of duplicate cash receipts, &c.
Com'r. (C.) Oct. 20, 1881. T. J. Edwards, 8 C. L. O., 200.
See *Public lands*, (deserted wife,) Nos. 143, 144.

Miami Indian Reservation in Kansas :

250. Instructions under act of June 27, 1882.
Com'r. (C.) June 29, 1882, 9 C. L. O., 103.
251. Notice to settlers on unallotted lands in same.
Com'r. (C.) July 19, 1882, 9 C. L. O., 138.

Minnesota :

252. Proclamation withdrawing from sale or disposal certain lands in.
Public notice, Nov. 28, 1881, 8 C. L. O., 185.

Military bounty-land warrants :

253. Attaching seal of office to Com'r's certificate regarding regularity of assignment of, discontinued.

Com'r. (C.) Jan. 12, 1882, to local officers, 8 C. L. O., 184.

Minor children :

254. A married woman under the age of 21 years, the child of a deceased person qualified, if living, to make "a soldier's homestead," is a minor orphan child under sec. 2307 R. S.

Sec'y. Dec. 8, 1880. Maria J. Stuart, 7 C. L. O., 148.

255. The provisions of law regarding, cannot be defeated by homestead party making a will. What final proof must show regarding, in case of death of homestead party.

Com'r. (C.) Jan. 13, 1882. Sarah Leonards, 9 C. L. O., 6.

Mistake :

See *Public lands*, (error,) Nos. 166, 167.

Mulching :

256. When it will be allowed on timber-culture entries.

Com'r. (C.) Feb. 17, 1882. Enoch W. Poor, 8 C. L. O., 195.

Naturalization :

257. Homestead party claiming, through his father must show that he was dwelling within the United States at the date of his father's naturalization.

Com'r. (C.) June 28, 1882. Adolphus Pinder, 9 C. L. O., 72.

258. Only courts having clerks separate and distinct from the judges are competent to naturalize aliens.

Com'r. (C.) June 10, 1882. Letter to J. F. Hechtman, esq., 9 C. L. O., 72.

Nebraska :

See *Public lands*, (Otoe and Missouri Indian Reservation,) No. 270.

Newspapers :

259. Instructions regarding charges for publication of certain notices, 8 C. L. O., 175.

260. Of good repute should be selected by local officers where notice regarding proof under act March 3, 1879, is to be given by publication; newspapers nearest the land by usual traveled routes.

Com'r. (C.) Dec. 19, 1881, to R. & R., Leadville, Colo., 8 C. L. O., 177.

Notice :

261. In contested case, must be given by personal service, when address of the defendant is known.

Sec'y. Jan. 13, 1881. Gulseth v. Samson, 7 C. L. O., 163.

262. By publication, being in several particulars defective, contest dismissed.

Sec'y. Jan. 29, 1881. Reinmer v. Doty, 8 C. L. O., 7.

263. Of continuance, in contest case, need not be given by publication, when.

Com'r. (C.) May 16, 1881, to Chas. L. Truman, 8 C. L. O., 36.

Notice—Continued.

264. What must be stated by local officers in a, of their decision in contested case.
Com'r. (C.) August 15, 1881. *Vinson v. Keith*, 8 C. L. O., 90.
265. Of proof, under act March 3, 1879, should be published in newspapers of good repute nearest the land by usual traveled routes.
Com'r. (C.) Dec. 19, 1881, to R. & R., Leadville, Colo., 8 C. L. O., 177.
266. When a, of decision of the General Land Office is sent by mail to local officers to be served by them, ten days are allowed in addition to the sixty allowed under the rulings of the Department.
Com'r. (C.) Feb. 10, 1882, to Hon. Montgomery Blair, 8 C. L. O., 188.
267. Irregularity in, of hearing, cured by appearance of party who proceeds without objection thereto.
Sec'y. May 3, 1882. *Morse v. Payne*, 9 C. L. O., 70.
268. Variance between, and affidavit of contest, when too late for defendant to take advantage of.
Com'r. (C.) Aug. 31, 1881. *Gould v. Weisbecker*, 9 C. L. O., 151.
269. To settlers on unallotted lands in Miami Indian Reservation, in Kansas.
Com'r. (C.) July 19, 1882, 9 C. L. O., 138.
See *Pub. Lands*, (practice,) No. 283.

Otoc and Missouri Indian Reservation in Kansas and Nebraska:

270. How land in, will be sold.
Com'r. (C.) Dec. 27, 1881. Hon. N. Ford, 8 C. L. O., 184.

Ottawa and Chippewa Indian Reservation:

271. Lands in, reserved as being "valuable mainly for pine timber," not subject to disposal until further legislation by Congress.
Com'r. (C.) July 17, 1882. *White and Mallett*, 9 C. L. O., 138.

Patent:

272. Act of March 3, 1879. Provisions of law regarding issue of, on new or additional entries.
Com'r. (C.) March 1, 1882, *Joseph D. Sharp*, 9 C. L. O., 6.
273. Desert land, will issue only in names of the original parties.
Com'r. (C.) Feb. 8, 1882. *Pedro Sodello et al.*, 9 C. L. O., 38.
274. In homestead cases, the order stated in which, may issue.
Com'r. (C.) June 24, 1882. *John J. Jones*, 9 C. L. O., 73.
275. How, or in what case, may be corrected, so that name of patentee shall agree with signature. When remedy of party is in the courts.
Com'r. (C.) June 15, 1882. *Alexander Chaboillez*, 9 C. L. O., 84.
276. To homesteader after contest on decision of General Land Office, not appealed from, held paramount to railroad title under land grant.
Kan. Pac. R'way Co. v. Dunmeyer, 24 Kan. R., 725.

Perjury:

277. Any person having knowledge of, may, on proper showing, cause the arrest of perjurers in land cases.

Com'r. (C.) Jan. 22, 1881, to Andrew J. Osburn, 8 C. L. O., 7.

Permanent Indian reservation:

278. Definition of the term.

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

Personal right:

279. A preference right of contestant is a, and is in him only who contests and procures the cancellation of an entry—a right which is not assignable.

Sec'y. Sept. 20, 1882. Weber v. Shappell, 9 C. L. O., 131.

Planting:

See *Pub. lands*, (timber culture,) Nos. 360, 362, 366, 367.

Possession:

280. Public lands claimed by virtue of, claimant is bound to take such precaution as will advise all the world of his rights.

Forsyth v. Richardson, 1 Idaho R., 459.

281. Certificate of, in accordance with law, is an equitable severance of the land from the public domain, and sufficient evidence of title, when accompanied by possession, to found the basis of prescription against the holder of a patent issued subsequently to the acquisition of such prescription.

Gray v. Ellis, 33 La. An'l R., 249.

282. Claim by right of, against the United States is very slight, and so long as the United States retains the legal title, the statute of limitations does not run against it, nor does any equity arise from such possession.

Simmons v. Ogle, 105 S. C., 271.

Practice:

283. Proceedings, where contest is continued, published notice of contest having been given in the first instance.

Com'r. (C.) May 16, 1881, to Chas. L. Truman, 8 C. L. O., 36.

284. In contested cases the proof should be confined to the allegations, and judgment rendered only on the questions at issue.

Sec'y. June 9, 1881. Schelter v. Off., 8 C. L. O., 53.

285. In what case additional time allowed for appeal—Rule 44 of Practice, indefinite.

Com'r. (C.) July 1, 1882. Markers v. Canady, and other cases, 9 C. L. O., 70.

286. Regarding arguments, and copies for service, in contested cases where appeals are taken.

Act'g Com'r. (C.) June 2, 1881, 9 C. L. O., 110.

See *Public lands*, (Rules of Practice,) Nos. 341, 342, 343.

Pre-emption law and timber-culture law:

287. What is required under each—no distinction between requirements of.

Sec'y. July 24, 1882. Galloway v. Winston, 9 C. L. O., 98.

Preference right :

288. The act of May 14, 1880, gives the contestant of a homestead entry a preference right only upon cancellation of the entry.
 Sec'y. March 12, 1881. *Gohrman v. Ford*, 8 C. L. O., 6.
289. Of contestant, personal, and cannot be transferred or assigned.
 Comr. (C.) Jan. 13, 1882. *Bennet v. Collins*, 8 C. L. O., 172.
290. Of contestant in timber-culture cases, thirty days to enter land; meantime no other timber-culture entry can be made in same section.
 Sec'y. March 13, 1882. *Wm. Ehmen*, 9 C. L. O., 36, 37.
291. Of contestant, under act May 14, 1880, is a personal one, and not assignable.
 Com'r. (C.) April 17, 1882. *Boysen v. Born*, 9 C. L. O., 61.
292. Relinquishment of timber lands—party procuring and filing relinquishment acquires no preference right.
 Com'r. (C.) June 30, 1882. *Martin v. Pugh*, 9 C. L. O., 79.
293. Of contestant, holds good, notwithstanding allegations that timber-culture entry was illegal at inception.
 Sec'y. Aug. 1, 1882. *Haskins v. Nichols*, 9 C. L. O., 118.
294. Does not attach when purchase of land is made prior to cancellation of entry.
 Com'r. (C.) Sept. 6, 1882. *John D. Hay*, 9 C. L. O., 132.
295. Is acquired under act of May 4, 1880, by one who successfully contests a homestead entry, pays fees, &c., and gains such adverse standing as to prevent the entryman from paying for the land under act of June 15, 1880.
 Act'g Com'r. Oct. 29, 1880. *Gohrman v. Ford*, 7 C. L. O., 135.
296. Where a second contest initiated prior to the termination of a prior one, and the entry in question is canceled as the result of first contest, the second contestant has no preference right of entry, should the first contestant fail to make entry. The preference right being personal cannot be transferred or assigned.
 Com'r. (C.) Jan. 13, 1882. *Bennett v. Collins*, 8 C. L. O., 172.

Private entries :

297. An application in writing is the foundation of all, or entries generally, where a memorandum of the land sought to be entered is required by law or regulations.
 Com'r. (C.) Nov. 15, 1880, to *Wm. Sensenderfer*, 7 C. L. O., 167.

Protest :

See *Public lands*, (final proof,) No. 179.

Purchase :

298. Money cannot be refunded where party has taken benefit of act of June 15, 1880, and paid the required price for his land.
 Com'r. (C.) Jan. 9, 1882. *W. W. Dewhurst*, 8 C. L. O., 178.
299. Of canceled homestead entry, when allowed under act June 15, 1880.
 Sec'y. June 3, 1882. *John W. Miller*, 9 C. L. O., 57.

Purchase—Continued.

300. An application to, prior to cancellation of homestead entry defeats contest. Under act of June 15, 1880, transfer of a portion of the land embraced in a homestead entry by *bona fide* instrument in writing is no bar to purchase.

Com'r. (C.) Sept. 6, 1882. John D. Hay, 9 C. L. O., 132.

Purchaser :

301. When a, from original entryman may make an adjoining farm entry.

Com'r. (C.) June 17, 1882, to R. and R., Jackson, Miss., 9 C. L. O., 74.

302. Of homesteader's rights—rights of, under act of June 15, 1880. Sec'y. April 27, 1882. Thomas F. Weaver, 9 C. L. O., 95.

303. Of a homestead claim has no standing in a contest, when. Sec'y. Sept. 20, 1882. Weber *v.* Shappell, 9 C. L. O., 131.

Receipt :

304. When transfer of duplicate, is not a legal transfer of title to land.

Com'r. (C.) July 10, 1882. Ella M. Hoyt, 9 C. L. O., 95.

Reclamation :

See *Public lands*, (desert lands,) No. 142.

Record :

305. Homestead claimant, by act of May 14, 1880, is placed in same position as pre-emption claimant, in regard to right to place claim on record within three months after the filing of township plat in local office.

Com'r. Dec. 4, 1880. Ezrey *v.* Glen, 7 C. L. O., 148.

306. Of contest lost—proceedings in case of.

Com'r. (C.) May 19, 1882. John Zeigler, 9 C. L. O., 50.

Registers and receivers :

307. Instructions to, regarding fees and charges.

Com'r. (C.) Jan. 27, 1881, to R. & R., Shasta, Cal., 7 C. L. O., 186.

308. Salaries, fees, and commissions of, how prescribed.

First Comptroller, July 25, 1881, to Com'r, 8 C. L. O., 78.

309. What must be stated by, in notices of decisions in contested cases.

Com'r. (C.) Aug. 15, 1881. Vinson *v.* Keith, 8 C. L. O., 90.

310. A homestead party appointed register may perfect entry, when; purchase under act of June 15, 1880.

Com'r. (C.) Aug. 3, 1882. Thomas J. Scott, 9 C. L. O., 132.

311. The duties of, are separate and distinct, and neither can discharge those of the other in the absence of express authority therefor, &c.

Acting Com'r. (C.) Nov. 23, 1882. Christian F. Ebinger, 2 Rep'r, 154.

312. A party acting upon the suggestion of one or the other should lose nothing, unless.

Acting Com'r. (C.) Nov. 13, 1882. Schmidt *v.* Stillwell, 2 Rep'r, 154.

Registers and receivers—Continued.

313. Unlawful demands of receiver regarding timber-culture entries—case stated.

Sec'y. Dec. 4, 1880. H. O. Hodges, 7 C. L. O., 150.

Relinquishment:

314. Filed before final disposition of contest, treated as proof of abandonment, &c. Acts May 14, 1880, and June 15, 1880.

Acting Sec'y. June 2, 1881. Johnson v. Halmson, 8 C. L. O., 56.

315. In case of death of timber-culture claimant, must be the act of all the heirs.

Com'r. (C.) Aug. 6, 1881. Charles King, 8 C. L. O., 93.

316. A qualified party may make a, of a timber-culture entry of 80 acres, and thereafter may enter the tract, under act of March 3, 1879, as an additional to his original homestead entry.

Com'r. (C.) Nov. 7, 1881. W. C. Latimer, 8 C. L. O., 122.

317. Not allowed of one timber-culture entry for the purpose of making second entry elsewhere.

Com'r. (C.) Nov. 5, 1881. W. A. Lewis, 8 C. L. O., 122.

318. A, to inure to benefit of contestant, under act of May 14, 1880, as evidence, the allegation being abandonment, must be made before the closing of testimony taken before local officers.

Com'r. (C.) Sept. 30, 1881. John Powers, 8 C. L. O., 178.

319. Proceedings where homestead claimant has entered by mistake a tract upon which his improvements are not located, and the tract desired is in a different land district.

Com'r. (C.) Jan. 30, 1882. Geo. W. Burkett, 8 C. L. O., 192.

320. Of homestead entry because of conflict and to avoid contest, does not prevent a party from making another entry.

Com'r. (C.) Feb. 2, 1882. Edward Ezernack, 8 C. L. O., 192.

321. Party making a, cannot relinquish less than a 40-acre subdivision, where the homestead entry was made by regular subdivisions.

Com'r. (C.) Mar. 23, 1882. Evan Ellis, 9 C. L. O., 7.

322. Of a timber-culture entry of a deceased claimant, can be made only by the heirs or legal representatives.

Com'r. (C.) Mar. 21, 1882. Geo. Taylor, 9 C. L. O., 37.

323. Regarding *timber lands*—party procuring a, of affidavit, &c., acquires no preference right.

Com'r. (C.) June 30, 1882. Martin v. Pugh, 9 C. L. O., 79.

324. Where made of a homestead entry for purpose of making a timber-culture entry on same land, tract is open to entry by first legal applicant.

Com'r. (C.) Sept. 5, 1882. Banks v. Smith, 9 C. L. O., 130.

325. Of a timber-culture entry, cannot be made by an administrator, unless.

Acting Sec'y. Nov. 9, 1882. Sally Hickok, 2 Rep'r, 154.

Replanting:

See *Public lands*, (timber culture,) No. 367.

Requirements:

326. Of timber culture law. What is a substantial compliance with.
Com'r. (C.) April 6, 1882. *Kennedy v. Olson*, 9 C. L. O., 64.
327. Of timber-culture law in the matter of breaking, cannot be excused on account of season of drought.
Sec'y. June 30, 1882. *Truax v. Semper*, 9 C. L. O., 79.
328. No distinction between, of the pre-emption and of timber-culture laws. What required under each.
Sec'y. July 24, 1882. *Galloway v. Winston*, 9 C. L. O., 98.
329. Of soldier, in filing declaratory statement of intention to enter land under the homestead law.
Com'r. (C.) Nov. 22, 1882, to *Geo. H. Gardner*, 2 Rep'r, 158.

Reservation:

See *Public lands*, (Indian reservations,) Nos. 235, 236, &c.

Residence:

330. A party absent on account of severe drought, under act of June 4, 1880, is held to be constructively residing upon his land. Five years expiring during such absence, can make final proof.
Com'r. (C.) Nov. 3, 1881. *Martin A. Adams*, 8 C. L. O., 121.
331. When a few days of, should not be construed as evidence of want of good faith.
Com'r. (C.) Jan. 13, 1882. *Nickols v. Bird et al.*, 8 C. L. O., 176.
332. What, is a compliance with the requirements of the homestead laws.
Sec'y. June 23, 1882. *Edwards v. Sexson*, 9 C. L. O., 72.
333. Credit given party for, where transmuting a timber-culture entry to a homestead on same tract; peculiar facts.
Com'r. (C.) June 7, 1882. *Torjus H. Flom*, 9 C. L. O., 79.
334. On an original farm is not residence on an adjoining tract prior to entry thereof.
Com'r. (C.) July 15, 1882. *William C. Field*, 9 C. L. O., 115.
335. Credit for, on a tract during the time it was covered by another homestead entry cannot be allowed.
Com'r. (C.) Sept. 16, 1882. *John Johnson*, 9 C. L. O., 132.
336. What considered as, in case of additional homestead entry; compact body.
Com'r. (C.) June 21, 1882. *Eben M. Gordon*, 9 C. L. O., 148.

Restoration to market:

337. Proceedings regarding the, of certain tract of land.
Com'r. (C.) April 4, 1881, *William Butt*, 8 C. L. O., 7; and July 11, 1881, *John Boswell*, 8 C. L. O., 78.
338. Prior to, parties cannot, under the act of May 14, 1880, be allowed credit for settlement on land withdrawn for railroad purposes.
Com'r. (C.) Aug. 10, 1881, to *R. & R., Walla Walla, Wash. Ty.*, 8 C. L. O., 92.

Review :

339. Of several decisions touching the application of decisions in the cases of *Atherton v. Fowler* and *Hosmer v. Wallace*, to public-land cases. *Nickols v. Burbank et al.*
Com'r. March 31, 1881, to R. & R., Eureka, Nev., 8 C. L. O., 57.
340. Of a decision by the Secretary, in the absence of new evidence, will not be granted, when.
Sec'y. April 12, 1882. Case *Charles A. Richards*, 9 C. L. O., 50.

Rules of Practice :

341. In land cases, approved by the Secretary, are intended for the guidance of persons interested, and must be observed.
Sec'y. Jan. 13, 1881. *Gulseth v. Samson*, 7 C. L. O., 163.
342. Application of Rule No. 76 of, regarding review of Secretary's decision.
Sec'y. April 12, 1882. *Charles A. Richards*, 9 C. L. O., 50.
343. Rule 44 of, indefinite; in what cases additional time allowed for appeal.
Com'r. (C.) July 1, 1882. *Markers v. Canady*, and other cases, 9 C. L. O., 70.

See *Public lands*, (practice,) No. 283, *et seq.*

Sailors :

See *Public lands*, (soldiers' entries, &c.,) No. 351, *et seq.*

Sales :

344. No law of the Territory can authorize sale of the public lands; such a sale would be void.
People v. Owyhee M'g Co., 1 Idaho R., 409.

Saline lands :

345. The character of land is a question of fact to be determined by investigation.
Sec'y. July 12, 1882. *Henry C. Horton et al.*, 9 C. L. O., 121.

Scrip :

See *Public lands*, (Indian scrip,) No. 237, *et seq.*

Second contest :

See *Public lands*, (contest,) Nos. 102, 105.

Secretary of the Interior :

See *Land Department*, No. 1, *et seq.*

Settlement :

346. Under act of May 14, 1880, parties cannot be allowed credit for, on land withdrawn for railroad purposes prior to the restoration thereof to market.
Com'r. (C.) August 10, 1881, to R. & R., Walla Walla, Wash. Ter., 8 C. L. O., 92.
347. When commutation is permitted by a homestead party who has failed in.
Com'r. (C.) Dec. 31, 1881. *John J. McKay*, 8 C. L. O., 176.

Settlement—Continued.

348. Stock-raising and dairy production, and use of the land in grazing districts for that purpose, is satisfactory compliance, as to settlement, with the requirements of the homestead law.

Sec'y. to Att'y. Gen'l., Oct. 13, 1880, 7 C. L. O., 135.

See *Public lands*, (residence,) No. 330, *et seq.*

Settler:

349. A, appropriating land occupied by a party who has not complied with the law is not considered a trespasser.

Com'r. (C.) June 20, 1882. *Holst v. Phelps*, 9 C. L. O., 75.

Settlers:

Notice to.

See *Public lands*, (Miami Indian Reservation,) No. 251.

Sioux and Winnebago Indian Reservations:

350. Held to be permanent, within the meaning of the act of March 3, 1857.

Sec'y. Oct. 20, 1882, 2 Rep'r, 155.

Soldiers' entries, declaratory statements, &c.:

351. Additional homestead entries; residence required, &c.

Com'r. (C.) Aug. 22, 1881, to R's. and R's., 8 C. L. O., 88.

352. Proof required in case of homestead entry of qualified soldier who has deceased since making entry.

Com'r. (C.) Feb. 28, 1882. *Owen Colton*, 8 C. L. O., 192.

353. Rights of a soldier making an additional entry; date of filing.

Com'r. (C.) Feb. 16, 1882. *Henry Booth*, 9 C. L. O., 59.

354. Requirements of soldier in making a homestead entry; where declaratory statement is filed. Must make a legal entry of the land within six months, must remove to the tract so entered and reside upon and cultivate it, as prescribed by law, before he can acquire title to the land.

Filings or entries made by, when they do not settle upon the land and have no intention of doing so, are false and fraudulent; cannot sell what they do not possess.

Com'r. (C.) Nov. 22, 1882, to Geo. H. Gardner, 2 Rep'r, 158.

Statutes:

355. How they should be interpreted; fees in excess homestead cases.

Act'g Sec'y. Aug. 3, 1881. *Alcide Guidney*, 8 C. L. O., 157.

Survey:

356. Lands having been disposed of regularly under, this office has no authority under the law to enter upon and resurvey or direct a resurvey.

Com'r. (C.) Jan. 9, 1882. *W. W. Dewhurst*, 8 C. L. O., 178.

Suit:

357. A defendant in ejectment brought by A, a Government purchaser, in return brought suit in equity, alleging that B, under whom he claimed, had entered the land at the proper office long before the conveyance to A; but failing to produce either the register's certificate of purchase or the receiver's receipt for the purchase money, bill dismissed.

Simmons v. Ogle, 105 S. C., 271.

Taxation :

358. Improvements upon public lands, as also the possessory right thereto, are taxable.

Quivey v. Lawrence, 1 Idaho R., 313.

Threats :

359. Where claimant leaves his land on account of, or fear of violence, a few days of non-residence should not be construed as evidence of want of good faith.

Com'r. (C.) Jan. 13, 1882. Nickols v. Bird *et al.*, 8 C. L. O., 176.

Timber :

See *Public lands*, (homestead claimants,) No. 200; (timber culture,) No. 372.

Timber culture :

360. The entire area, required by law, can be planted at once, provided the ground has been prepared properly, five acres of trees having been destroyed during the preceding year.

Com'r. (C.) Jan. 31, 1881, to Jorgen Raon, 7 C. L. O., 181.

361. Claimant complies with the law who replows or harrows the land broken the previous year. Two years' preparation of the soil is a legal requirement, but putting it to crop is not necessarily required.

Act'g Com'r. (C.) June 4, 1881. Rhodes v. Avery, 8 C. L. O., 76.

362. Breaking and planting can be done by an agent, but claimant is held responsible in case of failures.

Com'r. (C.) Aug. 3, 1881. James Cassidy, 8 C. L. O., 92.

363. Acts of 1874 and 1878; non-compliance with requirements of Com'r. (C.) Aug. 24, 1881. Chapman v. I. Z. Week, 8 C. L. O. 160.

364. Where claimant believed he had broken ten acres, but which lacked a fraction of an acre thereof, entry not disturbed.

Com'r. (C.) Nov. 22, 1881. Richardson v. Knight, 8 C. L. O., 180.

365. When the mulching of trees will be allowed.

Com'r. (C.) Feb. 17, 1882, to Enoch N. Poor, 8 C. L. O., 195.

366. Failure to do the prescribed planting during the third year is a forfeiture of the entry.

Com'r. (C.) Mar. 20, 1882. Mendelbaum v. Turner, 9 C. L. O., 27.

367. Replanting—in case of destruction of trees by severe drought or other causes—must be done the next succeeding year.

Com'r. (C.) Jan. 9, 1882. C. W. Cook. 9 C. L. O., 28.

368. Purchaser—work done by vendor or agent inures to the benefit of the entryman, he being a purchaser.

Sec'y. April 1, 1882. Gahan v. Garrett, 9 C. L. O., 63.

369. Substantial compliance—what is.

Com'r. (C.) April 6, 1882. Kennedy v. Olson, 9 C. L. O., 64.

370. Entry made upon a section having upon it natural timber may be defeated by testimony showing that fact; though the entryman had made the usual affidavit that it was devoid thereof. The fact that a previous T. C. entry on the section had existed, does not affect the question.

Act'g Com'r. Oct. 19, 1880. Schilter v. Off, 7 C. L. O., 137.

Timber culture—Continued.

371. Scattering trees along the margin of a stream, less than 50 in number, do not prevent the tract being regarded as "naturally devoid of timber."

Com'r. Jan. 17, 1881. F. M. Phillips, 7 C. L. O., 166.

372. "Timber trees," kinds of, designated as being within the meaning of the law.

Com'r. Jan. 17, 1881, 7 C. L. O., 166.

373. In case of simultaneous applications to make the entry, the Register has no discretion, and cannot discriminate between them; though where but one of them came to his knowledge, the party who succeeded, without fraud, in first gaining his attention and securing action should be held prior as to time of entry.

Act'g Sec'y. Oct. 4, 1880. Jayne v. Gowdy, 7 C. L. O., 137.

Timber-culture entryman :

374. Merely offering to sell his interest is not deemed sufficient ground on which to base a contest.

Com'r. (C.) Aug. 12, 1881. J. W. Farmer, 8 C. L. O., 93.

375. In case of death of, relinquishment, how made.

Com'r. (C.) Aug. 6, 1881. Charles King, 8 C. L. O., 93.

376. Under the will of a deceased, the widow in this case could properly file a relinquishment of the entry.

Com'r. (C.) July 22, 1881. David Patton, 8 C. L. O., 107.

377. A, duly qualified, may relinquish entry of 80 acres, and thereafter enter tract under act of March 3, 1879, as an additional to his original homestead entry.

Com'r. (C.) Nov. 7, 1881. N. C. Latimer, 8 C. L. O., 122.

378. Cannot be allowed to relinquish an entry for the purpose of making a second entry elsewhere.

Com'r. (C.) Nov. 5, 1881. W. A. Lewis, 8 C. L. O., 122.

379. In view of act May 14, 1880, the application and affidavit of a, to make entry, can be accepted, although bearing date prior to the date when cancellation of another entry covering the same tract is made at local office; when such papers must be received.

Com'r. (C.) Aug. 23, 1881. David L. Merryman, 8 C. L. O., 141.

380. Where a single woman, a, after making and forwarding the required affidavit and application to make entry, marries before the entry is completed at the local land office, such entry will be legal if the law be fully complied with in other respects.

Com'r. (C.) Feb. 18, 1882. Effie J. Thomas, 8 C. L. O., 194.

381. Failing to do the prescribed planting during the third year forfeits the entry.

Com'r. (C.) March 20, 1882. Mendelbaum v. Turner, 9 C. L. O., 27.

382. Must replant during the next succeeding year where planting of trees has been destroyed by severe drought or other causes.

Com'r. (C.) Jan. 9, 1882. C. W. Cook, 9 C. L. O., 28.

Timber-culture entryman—Continued.

383. Widow of a, or the administrator, can alone relinquish entry when shown to be the sole heir. How heirs of a timber-culture claimant may relinquish entry.

Com'r. (C.) Mar. 21, 1882. George Taylor, 9 C. L. O., 37.

384. Work done by vendor or agent inures to the benefit of a, as though personally performed by the timber-culture claimant.

Sec'y. April 1, 1882. Gahan v. Garrett, 9 C. L. O., 63.

Timber-culture entries:

385. One may be made of tract wheron a few scattering trees are growing near a stream.

Com'r. (C.) Jan. 17, 1881, to F. M. Phillips, 7 C. L. O., 166.

386. Proceedings where simultaneous applications are made to contest entry.

Sec'y. Feb. 18, 1880. Theodore Kimm, 7 C. L. O., 181.

387. The entire area required by law may be planted at once; when, and under what circumstances.

Com'r. (C.) Jan. 31, 1881, to Jorgen Raon, 7 C. L. O., 181.

388. Two years' preparation of the soil is a legal requirement, re-plowing or harrowing the ground the second year is a compliance with the law; putting the land to crop is not necessarily required.

Act'g Com'r. (C.) June 4, 1881. Rhodes v. Avery, 8 C. L. O., 76.

389. Breaking and planting can be done by an agent; claimant held responsible in case of failure.

Com'r. (C.) Aug. 3, 1881. James Cassidy, 8 C. L. O., 92.

390. The mere offering to sell is not sufficient ground upon which to base a contest against entry.

Com'r. (C.) Aug. 12, 1881. J. W. Farmer, 8 C. L. O., 93.

391. Relinquishment of, how made, in case of death of claimant.

Com'r. (C.) Aug. 6, 1881. Charles King, 8 C. L. O., 93.

392. A qualified party may relinquish one, of 80 acres, and thereafter enter same, under act of March 3, 1879, as an additional to his original homestead entry.

Com'r. (C.) Nov. 7, 1881. W. C. Latimer, 8 C. L. O., 122.

393. A party cannot relinquish one for the purpose of making another elsewhere.

Com'r. (C.) Nov. 5, 1881. W. A. Lewis, 8 C. L. O., 122.

394. In lieu of act, May 14, 1880, application and affidavit to make entry can be accepted, although bearing date prior to date when cancellation of another entry, covering same tract, is made at local office. Such papers must, however, be received at local office within reasonable time.

Com'r. (C.) Aug. 23, 1881. David D. Merryman, 8 C. L. O., 141.

395. In case of a contested, the contestant's entry takes date from time it is fully effected and not from date of initiation of contest.

Com'r. (C.) Sept. 15, 1881. Thomas A. Cheshire, 8 C. L. O., 195.

Timber-culture entries—Continued.

396. Circular of instructions regarding the making of final proof on.
Com'r. (C.) Feb. 1, 1882, to local officers, 8 C. L. O., 195.
397. Where claimant fails to do the prescribed planting during the third year, the entry is forfeited.
Com'r. (C.) March 20, 1882. *Mendelbaum v. Turner*, 9 C. L. O., 27.
398. Where planting of trees destroyed by drought or other causes, the replanting must be done the next succeeding year.
Com'r. (C.) Jan. 9, 1882. *C. W. Cook*, 9 C. L. O., 28.
399. One contested and canceled, contestant has thirty days to enter land, &c.
Sec'y. March 13, 1882. *Wm. Ehmen*, 9 C. L. O., 36, 37.
400. One, of deceased son, can be completed by father as heir.
Com'r. (C.) Jan. 6, 1882. *Cowan v. Woodside*, 9 C. L. O., 37.
401. Of deceased claimants, can be relinquished only by the heirs or legal representatives. Widow or administrator can alone relinquish when shown to be the sole heir. How heirs may relinquish, &c.
Com'r. (C.) Mar. 21, 1882. *George Taylor*, 9 C. L. O., 37.
402. Work on, can be done by the entryman, his agent or the vendor. One purchasing land which has been in whole or in part broken, planted, or cultivated by another, the law is as fully complied with as if he, the purchaser, had personally performed the work.
Sec'y. April 1, 1882. *Gaban v. Garrett*, 9 C. L. O., 63.
403. Affidavit and application to make, cannot be made by agents or attorneys in behalf of principals.
Com'r. (C.) May 31, 1882. *John E. Cannon*, 9 C. L. O., 64.
404. Where one, transmuted to homestead for same tract, credit given for residence, &c.
Com'r. (C.) June 7, 1882. *Torjus H. Flom*, 9 C. L. O., 79.
405. Preference right of contestant holds good, notwithstanding entry alleged to have been illegal at inception.
Sec'y. Aug. 1, 1882. *Haskins v. Nichols*, 9 C. L. O., 118.
406. Contests against, are restricted to parties who seek to make entries of the lands. Contestant must file application to make entry when initiating contest, otherwise contest void.
Act'g Sec'y. Nov. 14, 1882. *Bundy v. Livingston*, 2 Rep'r, 154.
407. One, cannot be relinquished by an administrator, unless.
Act'g Sec'y. Nov. 9, 1882. *Sally Hickok*, 2 Rep'r, 154.
408. Case of unlawful demands regarding fees.
Sec'y. Dec. 4, 1880. *H. O. Hodges*, 7 C. L. O., 150.

Timber-culture laws:

409. Substantial compliance with—what is.
Com'r. (C.) April 6, 1882. *Kennedy v. Olson*, 9 C. L. O., 64.

Timber-culture laws—Continued.

410. Act of June 14, 1878, does not limit right of contest to one person or to one contest; neither does it forbid a second contest when the first has not been sustained. (On appeal to Secretary.)

Com'r. (C.) Mar. 3, 1882. Case *Schneider v. Bradley*, 9 C. L. O., 64.

411. No distinction between requirements of the, and the pre-emption laws—what each requires.

Sec'y. July 24, 1882. *Galloway v. Winston*, 9 C. L. O., 98.

Timber lands:

412. Affidavit under act of June 3, 1878, does not withdraw the land from entry. A party procuring relinquishment of affidavit regarding timber lands acquires no preference right. A homestead entry thereof may be allowed, subject to prior rights. No entry of, can be allowed after proof made in the prescribed manner, that land is valuable only for timber or stone.

Com'r. (C.) June 30, 1882. *Martin v. Pugh*, 9 C. L. O., 79.

Timber trees:

413. Include every kind valuable for timber or for domestic purposes.

Com'r. (C.) Feb. 3, 1882, to Hon. M. C. George, 8 C. L. O., 180.

Unsurveyed lands:

414. Homestead settlers on, not obliged to file or make entries until all the tracts embraced in their claims have been surveyed, and plats thereof returned to the local office, which shall enable them to describe the tract claimed by proper legal subdivisions.

Com'r. (C.) Feb. 9, 1881, to R. & R., Los Angeles, Cal., 8 C. L. O., 7.

Ute Indian Reservation:

415. In Colorado, when restored to market, lands in will be sold for cash only.

Com'r. (C.) Oct. 26, 1881. *Isaac Mears*, 8 C. L. O., 123.

Variance:

416. Between affidavit of contest and notice thereof, when too late for defendant to take advantage.

Com'r. (C.) Aug. 31, 1881. *Gould v. Weisbecker*, 9 C. L. O., 151.

Vested adverse rights:

See *Public lands*, (homestead laws,) No. 232.

Violence:

When claimant leaves his land on account of threats or fear of violence, a few days of residence wanting should not be construed as evidence of want of good faith.

Com'r. (C.) Jan. 13, 1882. *Nickols v. Bird et al.*, 8 C. L. O., 176.

See *Public lands*, (forcible intrusion,) No. 183.

Warranty deed :

See *Public lands*, (church site,) No. 59.

Widow :

417. Of deceased settler may sell her right under act of June 15, 1880.
Act'g Com'r. (C.) June 3, 1881. David F. Herrington, 8 C. L. O., 56.
418. Under the will of her deceased husband she may properly file a relinquishment of a timber-culture entry.
Com'r. (C.) July 22, 1881. David Patton, 8 C. L. O., 107.
419. In case of the original homestead entry of a, when the five years' time required dates from.
Com'r. (C.) Dec. 9, 1881. Margaret Walker, 8 C. L. O., 175.
420. The act of March 3, 1879, includes all persons who in any manner, by original entry or by operation of law, have succeeded to the right to make final proof.
Sec'y. Dec. 19, 1881. Annie Anderson, 8 C. L. O., 177.
421. When sole heir of a deceased timber-culture claimant can relinquish entry.
Com'r. (C.) Mar. 21, 1882. Geo. Taylor, 9 C. L. O., 37.
422. Allowed, under act June 15, 1880, to purchase, although homestead entry illegal at inception on account of alienage of claimant.
Com'r. (C.) May 23, 1882. William H. White, 9 C. L. O., 57.

Wife :

See *Public lands*, (deserted wife,) Nos. 143, 144.

Will :

423. A homestead party cannot by, defeat the provisions of the law regarding the rights of minor children.
Com'r. (C.) Jan. 13, 1882, to Hon. W. D. Washburne. Sarah Leonardo, 9 C. L. O., 6.

Woman :

424. A single, after making and forwarding the required affidavit and application to make a timber-culture entry, marrying before the entry is completed at local office, *held*, such entry will be legal, *provided*, the law can be fully complied with in other respects.
Com'r. (C.) Feb. 18, 1882. Effie J. Thomas, 8 C. L. O., 194.

PUBLIC OFFICERS.

See *Agent*.

Pre-emption, (misconduct,) No. 78; (proof and payment,) No. 114.

PUEBLO INDIANS.

See *Indians*.

Private land claims, Nos. 101, 102.

PURCHASE.

See *Public lands*, Nos. 298, *et seq.*; (construction,) Nos. 85, 89, 90, 91, 94, 98, 99, 100, 101; (contest,) No. 106; (contested cases,) No. 114; (entry,) Nos. 149, 150, 151.

PURCHASE MONEY.

See *Public lands*, (purchase,) No. 298.

PURCHASER.

See *Mines, &c.*, (resulting trust,) No. 211.

Pre-emption, No. 120.

Public lands, Nos. 301, 302, 303.

Private land claims, (estoppel,) No. 27; (selection,) No. 112.

Timber depredations, No. 18; (damage,) No. 5.

QUALIFICATIONS.

See *Pre-emption*, Nos. 121, 122; (Osage tr. and dim. reserve lands,) No. 32.

RAILROAD GRANTS.

See *Grants*, No. 2.

Railroads, (forfeiture,) No. 15; (dower,) No. 20; (right of way,) No. 53, *et seq.*; (settler,) Nos. 62, 63; (wife,) No. 74.

Private land claims, (Oregon donations,) No. 66.

Public lands, (entry,) No. 161.

RAILROADS.—DIVISION F.

Abandonment :

1. Of land by homesteader, but his entry not canceled; the tract was not public land which the railway company could claim upon filing map of definite location, and subsequent pre-emption entry sustained.

Sec'y. Feb. 24, 1881. *Jones v. D. P. Ry. Co.*, 7 C. L. O., 181.

Accretions :

2. Land covered by the waters of a lake, (which have since receded,) at the date of definite location and of the withdrawal, does not inure to the railroad under its grant.

Com'r. (F.) Mar. 12, 1881. *Dodge v. N. La. and Tex. R. R. Co.*

ALABAMA AND CHATTANOOGA RAILROAD CO.

See *Railroads*, (construction,) No. 5a; (jurisdiction,) No. 20a.

Arkansas :

- 2a. By the act of June 21, 1876, providing that all the public lands in Arkansas should be disposed of under the homestead laws only, (which remained in force until its repeal, July 4, 1876,) all pre-emption settlements in Arkansas on June 21, 1876, were abrogated and made of no effect.

Sec'y. June 23, 1882. *L. R. & Ft. S. R. R. Co.*

ATCHISON, TOPEKA AND KANSAS RAILROAD CO.

See *Railroads*, (Kansas,) No. 21.

ATLANTIC, GULF AND WEST INDIA TRANSIT COMPANY.

See *Railroads*, (settler,) No. 66.

ATLANTIC AND PACIFIC RAILROAD COMPANY.

See *Railroads*, (construction,) No. 4; (forfeiture,) No. 14; (Mexican grants,) No. 29; (settler,) No. 63.

Burlington and Missouri River Railroad Company:

3. Grant to, by act of July 2, 1864, was *in presenti*, and though not specifying the lateral limits, implied that the lands should consist of those nearest the road upon which the grant could consistently take effect.

Wood v. R. R. Co., 104 S. C., 329.

See *Railroads*, (right of way,) No. 56.

CALIFORNIA AND OREGON RAILROAD COMPANY.

See *Railroads*, (homestead entry,) No. 19a; (offered lands,) No. 32; (Oregon donations,) No. 33; (selection,) No. 60a.

CEDAR RAPIDS AND MISSOURI RIVER RAILROAD COMPANY.

See *Railroads*, (entry,) Nos. 8, 9.

CENTRAL PACIFIC RAILROAD COMPANY.

See *Mines*, (timber,) No. 234.

Railroads, (lien lands,) No. 24; (pre-emption claim,) Nos. 42, 43; (pre-emption claimant,) Nos. 44, 45; (pre-emptor,) No. 47; (right of way,) No. 55; (settler,) No. 65.

Construction:

4. Lands granted to State of Mississippi, for the P. and S. W. R. Co., by act of June 10, 1852, held not to inure to the A. and P. R. R. Co. by its grant of July 27, 1866, the same being excepted by the third section of the last-named act from the quantity granted to the latter, as far as the two roads are upon the same general line.

Com'r. (F.) March 25, 1882.

5. The language, "subject to the expiration of such grant," in the act of April 21, 1876, had reference to the dates named in the several granting acts to railroads as those at which the roads should be completed, and not to those at which a legislative or judicial forfeiture might be declared.

Sec'y. Oct. 20, 1882, Wenzel v. St. P., Min. and Man. R'y Co., 2 Rep., 145; and Nov. 6, 1882, Dean v. same.

- 5 a. The act of June 3, 1856, does not authorize the State of Alabama to build a road through any portions of Georgia and Tennessee. The Wills Valley (now A. & C.) Railroad, having crossed the Alabama line into Georgia, became, to all intents, a Georgia railroad, and has no claim, under the act, to any lands lying in Alabama, in consideration of the six miles on the side of its road constructed in Georgia.

Com'r. (F.) Dec. 19, 1881, to R. & R., Huntsville, Ala.

Coosa and Chattooga River Railroad Company:

See *Railroads*, (jurisdiction,) No. 20a.

Dalles Military Wagon Road Company:

See *Railroads*, (declaratory statement,) No. 6a.

Declaratory statement :

6. A pre-emptor of part of an even-numbered section withdrawn from private entry and within grant to railroad company under act of July 14, 1870, was entitled to 18 months from the filing of declaratory statement to make payment and proof.

Morrison v. Stalnaker, 104 S. C., 213.

- 6a. Application to file a pre-emption declaratory statement within the indemnity limits of the grant should be allowed, subject to the company's right to select the tract.

Sec'y. July 11, 1882. *Overholt v. Dalles Military Wagon Road Co.*, 9 C. L. O., 100.

Denver Pacific Railway Company :

See *Railroads*, (abandonment,) No. 1; (patents,) No. 40.

Entry :

7. Canceled for conflict with railroad grant, held as confirmed by, and for reinstatement under act of April 21, 1876, notwithstanding the pre-emptor had, on cancellation, applied for return of purchase money.

Sec'y. June 5, 1882. *Ward v. S. M. R'y Ex. Co.*

8. Homestead entry, for a tract within the limits of the railroad withdrawal, which was covered by a prior homestead entry at the date the lands were restored to market, is confirmed by the act of April 21, 1876.

Sec'y. May 9, 1882. *Copeland v. C. R. & Mo. R. R. Co.*

9. Homestead entry, for a tract within the limits of the railroad withdrawal, which was covered at the date of the restoration to market of the vacant lands within such limits by a former homestead entry, and not therefore included in the list of lands actually restored, held to be confirmed by the act of April 21, 1876, the land being considered as in fact restored and properly subject to homestead entry.

Sec'y. May 19, 1882. *Jannap v. C. R. and Mo. R. R. Co.*; and see same May 31, 1882; *Leggett v. same*, 9 C. L. O., 82.

10. Homestead entry, after location of railroad under act of March 3, 1863, granting land to Kansas in aid of railroads, on part of odd-numbered section, was invalid.

Emster v. Young, 24 Kan. R., 732.

Filing :

11. Duly made with the local officer, whose action was approved by the Gen'l. Land Office, is an entry "made by permission of the Land Department," within the meaning of the act of April 21, 1876.

Sec'y. Oct. 20, 1882. *Wenzel v. St. P. M. and M. R'y Co.*; and same Nov. 6, 1882; *Dean v. same*.

12. Pre-emption filing is *prima facie* evidence of a valid right, and shifts the burden of proof to the party claiming the land covered by it as belonging to a railroad grant; and in the absence of proof to rebut the presumption, the presumptive claim must be held to be established.

Com'r. (F.) Oct. 10, 1881, Feb. 15, 1882. *Hazen v. St. P. and S. C. and S. M. R. R. Co's.*

Filing—Continued.

13. Pre-emption filing, abandoned by settler on being informed by receiver that he cannot perfect his entry by reason of the mineral character of the land, does not exhaust his right to make a second filing because he failed to verify or refute the receiver's statement.

Com'r. (F.) March 22, 1881. *Hunter v. N. P. R. R. Co.*

Sec'y. Jan. 20, 1882.

Flint and Pere Marquette Railroad Company.

* See *Railroads*, (selection,) No. 59.

Forfeiture:

14. Although railroad co. has failed to comply with terms of grant, it is not competent for the Dep't to enforce a forfeiture or restore the land granted by act of 1866.

Sec'y. Nov. 21, 1881. *McGrath v. A. and P. R. R. Co.*

15. Grant by act of July 27, 1866, was *in presenti*, and acquired precision on filing plat of location as required by statute. The conditions in section 8 are conditions subsequent, and grant was not forfeited by failure to perform same. The company had still the right to proceed with the construction, and until, by authority of Congress, advantage be taken of breach of conditions, the Executive Dep't. must give the company the benefit of the grant.

16 Opinions of Att'y Gen., 572, 7 C. L. O., 166.

16. Right belongs to Government to declare forfeiture of grant. *Knevals v. Hyde*, 1 McCra., C. C., 402; *same v. same*, 5 Dillon, C. C., 469.

General Land Office:

17. The prerogative of correcting an error of fact will be exercised by it, whenever brought to its attention.

Com'r. (F.) Feb. 15, 1882. *McCrory v. S. P. R. R. Co.*

18. The rule that one Com'r. has no authority to review a decision of his predecessor which has become final, does not apply to a case where the decision has not been declared final and the case formally closed.

Com'r. (F.) May 19, 1882, to R. & R., San Francisco. (On appeal to Sec'y.)

Hastings and Dakota Railroad Company:

See *Railroads*, (soldier,) No. 69.

Homestead application:

19. The rule that the filing of a pre-emption declaratory statement, prior to the filing of the map of survey, even though it remain in the local land office until after the plats of survey are returned there, is a nullity, applies to a homestead application filed prior to the plats of survey.

Sec'y. Jan. 15, 1881. *Portman v. S. P. R. R. Co.*

Homestead entry:

- 19a. Of record, within the "granted" limits of the railroad and the "indemnity" limits of the wagon road, at the date of the withdrawal, excepts the tract covered thereby from the operation of either of the grants.

Sec'y. Nov. 12, 1881. *Baughman v. Oregon Cent. W. R. Co.*, 8 C. L. O., 161.

Iowa :

20. Grant to State of, May 15, 1856, to aid in construction of railroad from Davenport to Council Bluffs, is *in presenti*, and, with certain exceptions mentioned, vesting in the State title to every odd-numbered section for 6 miles in width on each side of the road when the line thereof should be definitely fixed.

Grinnell v. R. R. Co., 103 S. C., 739.

Jurisdiction :

- 20a. It is for the State to determine what lands or proceeds of lands, within the overlapping indemnity limits, the Alabama and Chattanooga Railroad Company shall receive under the grant.

The Department has no authority to direct the State in the matter, the directions and conditions having been imposed upon the State by the act of Congress.

Sec'y. July 20, 1881. Alabama and Chattanooga R. R. Co., and Coosa and Chattooga River R. R. Co.

Kansas :

21. Title to lands granted to State of, in aid of railroads, by act of July 26, 1866, passed to railroad Co. on definite location of road.

A. T. & Kan. R. R. Co. v. Bobb., 24 Kan. R., 673; Emil v. Young, *id.*, 732.; A. T. & Kan.; R. R. Co. v. Rockwood, 25 Kan. R., 292.

- 21a. The State having selected, under the agricultural college act of July 2, 1862, certain "double minimum" lands, in lieu of twice the quantity of "minimum" lands, the same having been approved, and the approval acquiesced in for fifteen years, has now no right to select additional lands.

Sec'y. May 13, 1881.

Opinion of Att'y Gen'l., June 17, 1881.

Kansas Pacific Railway Company :

See *Railroads*, (patents,) No. 39.

Land :

22. Covered by the waters of a lake, (at date of definite location of railroad and of the withdrawal,) which have since receded, does not inure to the railroad under its grant.

Com'r. (F.) Mar. 12, 1881, and Aug. 23, 1881, to R. and R., Natchitoches, La.

Leavenworth, Lawrence and Galveston Railroad Company :

See *Railroads*, (Osage Indians,) No. 37; (suit,) No. 71; (withdrawal,) No. 76.

Lieu lands :

23. Right of railroad to, under act of July 26, 1866, was only a float, and title did not attach to a particular tract until selection, in the manner prescribed in the act.

Mo., Kan. & Tex. Ry Co. v. Noyes, 25 Kan. R., 340; A., T. & S. F. R. R. Co. v. Rockwood, *id.*, 292.

Lieu lands—Continued.

24. The grant of odd sections, outside of the forty miles limit, to become available in case of deficiency, did not attach to any specific land until deficiency had been ascertained and selection, in lieu thereof, actually made.

Ryan v. C. P. R. R. Co., 5 Saw., C. C., 260.

Little Rock and Fort Smith Railroad Company:

See *Railroads*, (Arkansas,) No. 2a.

Location:

25. The line of road designated on plat filed by company in the General Land Office, Jan. 3, 1867, was a proper location under the act of July 27, 1866.

S. P. R. R. Co. v. Orton, 6 Saw., C. C., 157.

26. Equitable title, under land grant, vested in railroad company from date of location of line of road.

Knevals v. Hyde, 1 McCra., C. C., 402; same v. same, 5 Dillon, C. C., 469.

27. Filing map of Saint Joseph and Denver City Railroad, under act of June 23, 1866, granting lands to Kansas for its benefit, was location of road.

Knevals v. Hyde, 1 McCra., C. C., 402.

28. On definite location of railroad, under act of July 26, 1866, title to company to odd-numbered sections within the 10-miles limit became absolute.

M., Kan. & Tex. Ry Co. v. Noyes, 25 Kan. R., 340.

Mexican grant:

29. Lands within the claimed limits of, before its final location, are in a state of reservation, and do not pass under a railroad grant, which, if they were public lands, would include them. After the location of the claim the lands so reserved, not included in the located area, became subject to pre-emption.

Sec'y. June 8, 1882. A. & P. R. R. Co. v. Fisher, 9 C. L. O., 80.

Minerals:

30. Limestone deposits do not, as minerals, except the land from railroad grants, similar in terms to that to the Southern Pacific Railroad Company prior to 1872.

Com'r. (F.) Aug. 5, 1880, to R. & R., Visalia, Cal., 7 C. L. O., 83.

Missouri, Kansas and Texas Railway Company:

See *Railroads*, (lieu lands,) No. 23; (location,) No. 28; (Osage Indians,) No. 36; (patent,) No. 38; (soldier,) No. 70; (withdrawal,) No. 76.

North Louisiana and Texas Railroad Company:

See *Railroads*, (accretions,) No. 2.

Northern Pacific Railroad Company:

See *Railroads*, (filing,) No. 13; (pre-emption claim,) Nos. 42, 43; (pre-emption claimant,) No. 44; (relinquishment,) No. 49a; (reservation,) Nos. 50, 51; (right of way,) No. 57; (selecting,) No. 60; (settler,) No. 64; (settler's right,) No. 68; (withdrawal,) Nos. 75, 79.

Occupation :

31. Lands within the limits of grant to Texas and Pacific Railway Company, actually occupied at date of definite location of road, were excepted from the grant by the terms thereof.
Com'r. (F.) Jan. 13, 1882, (to R. & R., Los Angeles, Cal. ;) S. H. Bratton v. T. & P. Ry Co. ; June 22, 1882, T. Bratton v. same ; May 19, 1882, N. B. Bratton v. same, and J. E. Flinn v. same.

Offered lands :

32. A pre-emptor of a tract afterwards "offered" at public sale, who did not assert and complete his claim by proof and payment prior to the offering, is not disqualified, in the absence of a purchaser or adverse claimant, from claiming and acquiring the right of pre-emption to the tract.
Com'r. (F.) July 11, 1882. Wolford v. C. & O. R. R. Co. (Appeal pending.)

Oregon and California Railroad Company :

See *Railroads*, (Oregon donations,) No. 33.

Oregon donations :

33. Notification of record and uncanceled at date when railroad right attaches, except the land covered thereby from the railroad grant. The relinquishment of such a claim has no effect upon the status of the land until the cancellation by the General Land Office.
Com'r. (F.) Dec. 16, 1880. Coleburn v. O. & C. R. R. Co.

Oregon Central Wagon Road Company :

See *Railroads*, (homestead entry,) No. 19a.

Oregon Short Line Railway Company :

See *Railroads*, (priority,) No. 49.

Oregon Railway and Navigation Company :

See *Railroads*, *id.*

Osage ceded lands :

34. The prohibitions of the pre-emption law do not apply to cases under the act of August 11, 1876, and no restriction as to the number of filings a claimant may make is found therein.
Com'r. (F.) July 11, 1881, (to R. & R., Independence, Kan.,) *ex parte* John Terhune.
35. The requirement of the pre-emption law that a person claiming thereunder shall file an affidavit embodying the designated particulars, is not found in the act of August 11, 1876, relating to the entry of Osage ceded lands, which requires only that the entryman shall be a *bona fide* settler.
Sec'y. Feb. 21, 1882. Morley v. Cooper.

Osage Indians :

36. Lands reserved for their benefit did not pass under land grant to State in aid of railroads.
U. S. v. Mo., Kan. & Tex. Ry Co., 1 McCra., C. C., 624.
H. Mis. 145, pt. 1—9

Osage Indians—Continued.

37. Lands granted to, by treaty of June 2, 1825, did not pass by grant to State of Kansas in aid of railroads.

U. S. v. L. L. & G. R. R. Co., 1 McCra., C. C., 610.

Pacific and Southwestern Railroad Company:

See *Railroads*, (construction,) No. 4.

Patent:

38. Entry within indemnity territory before selection; land afterward selected by and patented to railroad company under act of July 26, 1866; patent was without authority, and homestead entry had preference right.

Mo., Kan. & Tex. R'y Co. v. Noyes, 25 Kan. R., 340.

39. To homesteader on decision, (after contest,) of Com'r. of General Land Office, not appealed from, held paramount to title to R. R. Co., under its land grant.

Kan. Pac. R'y Co. v. Dunmeyer, 24 Kan. R., 725.

Sec'y. Feb. 24, 1881. Smith v. Kan. Pac. R'y Co.

40. To issue upon all claims falling within provision of section 2 of act of April 21, 1876, notwithstanding patent had already issued to R. R. Co.

Sec'y. Feb. 24, 1881. Jones v. D. P. R'y Co., 7 C. L. O., 181.

Practice:

41. Where there are two parties to the record, and one, cited to a hearing on motion of the other, fails to appear, the party failing shall thereafter be regarded as in default and having no standing before the Dep't., unless within reasonable time he satisfactorily explain his default and obtain reinstatement.

Sec'y. Oct. 31, 1881. Gilbert v. St. J. & D. C. R. R. Co., 9 C. L. O., 134.

Pre-emption claim:

42. Attaching to a tract in an odd-numbered section in the granted limits at the date of withdrawal by R. R. Co., (and not abandoned,) excludes such tract from the withdrawal and from the grant.

Sec'y. Dec. 17, 1881, Trepp v. N. P. R. R. Co., 8 C. L. O., 181; and June 20, 1882, C. P. R. R. Co. v. Baker, 9 C. L. O., 82.

43. Tracts to which valid pre-emption claims attached when lands were withdrawn for R. R. Co., cannot pass under the grant, if the pre-emptors assert their rights. *Id.*

Pre-emption claimant:

44. Failure of, to file "in time," on tract in odd-numbered section, within railroad limits, but who afterwards asserts his claim, it being in "unoffered" land, is not defeated except where another settler on the same tract has filed and complied with the law.

Sec'y. Dec. 17, 1881, Trepp v. N. P. R. R. Co., 8 C. L. O., 181; June 20, 1882, C. P. R. R. Co., 9 C. L. O., 82.

Pre-emption claimant—Continued.

45. To defeat railroad right, must have been qualified as a pre-emptor when the railroad right attached. The doctrine of the retroactive effect of naturalization is not applicable.
 Sec'y. May 13, 1881. *McMurdie v. C. P. R. R. Co.*, 8 C. L. O., 36.

Pre-emption right :

46. To defeat right of pre-emption authorized by section 3 of act of July 1, 1862, (railroad and telegraph grant,) the company must have sold or disposed of the land within three years after the completion of its entire line; at which time the lands not disposed of became subject to settlement as prescribed in said section.
 Com'r. (F.) Feb. 19, 1882. *Cooper v. S. C. & P. R. R. Co.*, 8 C. L. O., 197.

Pre-emptor :

47. Who after settlement changed his filing to a homestead entry on same land, is entitled to have the time required to perfect his title computed from date of original settlement.
 Sec'y. June 20, 1882. *C. P. R. R. Co. v. Baker*, 9 C. L. O., 82.
48. Who settled before the indemnity withdrawal, but failed to assert his claim within three months after the filing of the township plat; *held* that the right of the settler antedated that of the railroad, which was simply a right to select lien lands, the laches of the settler being a matter between him and the Gov't.
 Sec'y. Aug. 18, 1882. *S. P. R. R. Co. v. Rosenberg*, 9 C. L. O., 135.

Priority :

49. The question of, between two roads claiming right of way under the act of March 3, 1875, is one of fact to be determined by the courts; the Department cannot take official cognizance of such questions.
 Sec'y. April 10, 1882. *U. and W. R. R. Co. v. Oregon S. L. R'y Co.*
 Com'r. (F.) Oct. 12, 1882, in case of *Oregon R'y and Nav. Co. v. same*, concurred in by Sec'y. Oct. 16, 1882.

Railroad grants :

See *Grants*, No. 2.
Private land claims, (Oregon donations,) No. 66.

Relinquishment :

- 49a. By a R. R. Co. under act of June 22, 1874, only relates to the person in whose favor it is made. If his entry be canceled the land inures to the R. R. Co. if it has not selected other land.
 Com'r. (F.) June 22, 1881, *Laughton v. N. P. R. R. Co.*; June 20, 1882, *Quin-ne-mo-see v. same*.

Reservation :

50. The odd sections within late Ft. Seward military reservation, reserved subsequent to withdrawal for railroad, held to inure to railroad upon extinguishment of military reserve.
 Sec'y. Mar. 24, 1881. *N. P. R. R. Co.*

Reservation—Continued.

51. The odd-numbered sections in Ft. Abercrombie military reservation, declared by Executive Order, after, grant to R. R. Co., but before designation of line of road, held to be excepted from grant.

Com'r. (F.) April 22, 1882. *Piche and Ferguson v. N. P. R. R. Co.*

Residence :

52. Continuous residence and cultivation required on land entered as homestead. Camping, eating, and sleeping thereon is not a compliance with the statute. Inclosing the homestead entry with an adjoining pre-emption entry, and residing on the latter, is not a compliance with the homestead law.

Sec'y. June 20, 1882. *Barbean v. S. P. R. R. Co.*, 9 C. L. O., 81.

Right of way :

53. Grant of, became specific and attached to the odd sections designated by the act, and the sections indicated were withdrawn from pre-emption by force of the act.

S. P. R. R. Co. v. Orton, 6 Saw., C. C., 157.

54. Granted to St. Jo. & Denver City R. R. Co. by act of July 23, 1866, through the public domain, is absolute and *in presenti*; and one subsequently acquiring a parcel of such land takes subject to such right.

R. R. Co. v. Baldwin, 103 S. C., 426.

55. Granted by act of July 1, 1862, is exclusive, and R. R. Co. may maintain ejectionment against an intruder.

C. P. R. R. Co. v. Benity, 5 Saw., C. C., 118.

56. Is not exempt from operation of State legislation.

U. P. R'y Co. v. B. & Mo. R. R. Co., 1 McCra., C. C., 452.

57. Is not exempt by company's charter from operation of the laws of Minnesota.

N. P. R. R. Co. v. St. P. M. & M. R'y Co., 1 McCra., C. C., 302.

St. Joseph & Denver City Railroad Company :

See *Railroads*, (location,) Nos. 26, 27; (practice,) No. 41; (right of way,) No. 54.

St. Paul, Minneapolis & Manitoba Railway Company :

See *Railroads*, (construction,) No. 5; (filing,) No. 11; (right of way,) No. 57; (selection,) No. 58; (settlement,) No. 61.

St. Paul & Sioux City Railroad Company :

See *Railroads*, (filing,) No. 12.

Selection :

58. The act of June 22, 1874, for the relief of settlers on railroad lands, does not authorize a R. R. Co. to surrender lands in the indemnity limits which have not been previously selected, and take other lands in lieu thereof.

Com'r. (F.) May 25, 1881. *Collar v. St. P. M. & M. R'y Co.*

59. The R. R. Co. is not entitled to select, (in either its granted or indemnity limits,) land lying west of its western terminus, defined by a line at right angles with the general course of its route at such terminus.

Sec'y. Sept 1, 1881. *F. & P. M. R. R. Co.*

Selection—Continued.

60. Upon relinquishment by R. R. Co. to a settler, and the selection of other land in lieu of that relinquished, the entry of the settler being afterwards canceled, the R. R. Co. is concluded from claiming the land.

Com'r. (F.) April 11, 1882. *Laughlin v. N. P. R. R. Co.*

- 60 a. The Gen'l Land Office cannot instruct the local officers to receive the Railroad Co.'s selection of lands subsequent to the expiration of its grant, (July 1, 1880,) as the granting act makes failure to complete the road by that time a forfeiture of all lands not then conveyed by patent, and declares the grant, for all not so conveyed, void.

Com'r. (F.) December 15, 1881. *Cal. & Or. R. R. Co.*

Settlement:

61. And filing constitutes an entry under act of April 21, 1876, as well as under the general practice of the Land Dep't. A settlement and filing made under the pre-emption laws on lands within the limits of a railroad land grant, at a time subsequent to the expiration of such grant, is an entry which is confirmed by section 3 of said act.

Sec'y. Oct. 20, 1882, *Wenzel v. St. P., M. & M. R'y Co.*, 2 Rep'r, 145; and Nov. 6, 1882, *Dean v. same.*

Settler:

62. A party settled prior to the date of the railroad grant, also prior to the withdrawal, and afterwards made homestead entry within three months after the filing of the township plat in the local land office, *held*, that the entry related back, under the act of May 14, 1880, to date of settlement.

Com'r. (F.) Jan. 13, 1882. *S. H. Bratton v. T. & P. R'y Co.*; June 22, 1882, *T. Bratton v. same*; May 19, 1882, *N. B. Bratton v. same*; same date, *J. E. Flinn v. same.*

63. The same as if he had settled under the pre-emption laws.

Com'r. (F.) Jan. 17, 1882, *Cuddy v. A. & P. R. R. Co.*; April 11, 1882, *Murphy v. same*; Mar. 18, 1882, *Hegnira v. same.*

64. Who has avowed his intention to perfect his claim under the pre-emption laws, cannot make homestead entry on same land under section 3 of act of May 14, 1880.

Com'r. (F.) Mar. 22, 1881, *Hunter v. N. P. R. R. Co.*

Sec'y. Jan. 20, 1882.

65. Upon a tract, at date of definite location of railroad, proved not to have abandoned his claim, but complied with legal requirements as to inhabitancy, &c., should be allowed to remain undisturbed, subject to final proof; that not having been made within the specified time, should be required to be made forthwith.

Sec'y. June 20, 1882. *C. P. R. R. Co. v. Baker*, 9 C. L. O., 82.

66. One having instituted a homestead entry prior to the railroad withdrawal, Mar. 26, 1881, his cash entry for same land, made after that date, under act of June 15, 1880, was properly allowed; and the railroad is not entitled to indemnity under act of June 22, 1874, although it has relinquished in his favor.

Com'r. (F.) July 12, 1882. *Martin v. A. G. & W. I. Tr. Co.*

Settler—Continued.

67. Whose entry was canceled for voluntary relinquishment, made because of conflict with railroad grant, who might have invoked the remedy provided by the act of April 21, 1876, but did not, is entitled to make another entry, with credit for the original one.

Com'r. (F.) July 5, 1882. James Keith.

Settler's right :

68. Relates back to date of settlement under act of May 14, 1880, defeating railroad right attaching between date of settlement and date of entry.

Com'r. (F.) Jan. 8, 1881, *White v. N. P. R. R. Co.*; May 19, 1881, *Lopez v. S. P. R. R. Co.*

Soldier :

69. Homestead entry by, in actual service, under act of March 21, 1864, held *prima facie* a valid entry, and to except the land from railroad grant, the R. R. Co. failing to allege and prove its illegality.

Com'r. (F.) Nov. 24, 1881. *Graham v. H. & D. R. R. Co.*

70. Homestead entry by one in the military service is not valid in the absence of proof of residence on the land by some member of his family; and subsequent entry of another person based thereon is not confirmed by section 2 of act of April 21, 1876.

Sec'y. (F.) Feb. 2, 1881, *Stouder v. Mo., Kan. & Tex. R'y. Co.*

Sioux City and Pacific Railroad Company :

See *Railroads*, (pre-emption rights,) No. 46.

Southern Minn. Railroad Company :

See *Railroads*, (filing,) No. 12.

Southern Minn. Railway Express Company :

See *Railroads*, (entry,) No. 7.

Southern Pacific Railroad Company :

See *Railroads*, (General Land Office,) Nos. 17, 19; (location,) No. 25; (minerals,) No. 30; (pre-emptor,) No. 48; (residence,) No. 52; (right of way,) No. 53; (settler's right,) No. 68; (trespasser,) No. 73; (withdrawal,) Nos. 77, 78.

Suit :

71. In equity, may be maintained by the U. S. to annul patent issued without authority of law.

U. S. v. L. L. & G. R. R. Co., 1 McCra, C. C., 610.

Taxation :

72. Lands granted to Railroad Co., and earned, though no patent had been issued because of the R. R. Co.'s failure to pay for surveys, held taxable.

County of Cass v. Morrison, 28 Minn. R., 257.

Texas and Pacific Railway Company :

See *Railroads*, (occupation,) No. 31; (settler,) No. 62.

Trespasser :

73. In action against, by the corporation, cannot traverse the title of the company.

S. P. R. R. Co. v. Orton, 6 Saw., C. C., 157.

Union Pacific Railway Company :

See *Railroads*, (right of way,) No. 56; (wife,) No. 74.

Utah and Wyoming Railroad Company :

See *Railroads*, (priority,) No. 49.

Wife :

74. Homestead entry by a woman whose husband had abandoned her, held valid at the date thereof, and to except the land from railroad grant; and that the subsequent return of the husband did not change its status, though it may have prevented its completion.

Sec'y. March 14, 1881. Rolph v. U. P. R. R. Co.

Wills Valley Railroad Company :

See *Railroads*, (Alabama and Chattanooga R. R. Co. and Construction,) No. 5a.

Withdrawal :

75. Although a tract be covered by a valid entry prior to withdrawal for general route of railroad, if the entry be canceled before the definite location of road, the tract is subject to the grant.

Com'r. (F.) May 6, 1881. Richardson v. N. P. R. R. Co.

76. A tract within the ten miles (granted) limits of the L. L. & G. R. R. Co. and the twenty miles (indemnity) limits of the M. K. & T. R'y. Co. at the date of the withdrawal for the latter, was reserved for the former, and could not be selected under the withdrawal. The lands of the L. L. & G. R. R. Co. having been declared forfeited by the act of July 24, 1876, and the tract in question not having been, since then, selected by nor withdrawn for the M. K. & T. R'y. Co., is subject to entry under the homestead law.

Com'r. (F.) Sept. 2, 1882. M. K. & T. R'y. Co.

77. At time of withdrawal of land in question it was covered by a subsisting homestead entry, subsequently canceled, which excepted it from the railroad grant, and upon its cancellation the land reverted to the U. S.

Sec'y. June 20, 1882. Barbeau v. S. P. R. R. Co., 9 C. L. O., 81.

78. Of the lands by the act of Congress being absolute and unconditional, the Sec'y. of the Interior had no power to restore them to their former condition; they could only be opened to pre-emption by statutory authority.

S. P. R. R. Co. v. Orton, 6 Saw., C. C., 157.

79. When made for a R. R. Co. in 1873, and an amended withdrawal in 1879, held that the company was not entitled to the lands covered by both, as against a person who settled after the first and before the last withdrawal.

Com'r. (F.) June 13, 1882. Prepey v. N. P. R. R. Co.

See *Mines*, &c., (notice,) No. 154.

Timber depredations, No. 19, et seq.; (Mexican and Spanish grants,) No. 13.

RAILROAD TITLE.

See *Public lands*, (patent,) No. 276.

RECEIVERS.

See *Accounts*, (cert's of deposit,) Nos. 5, 6.
Mines, &c., (acting as register,) No. 200.

RECEIVERS OF PUBLIC MONEY.

Parties who yield to unlawful demands of, do so at their peril.

The Government will not make good their losses.

Sec'y. Dec. 4, 1880. H. O. Hodges, 7 C. L. O., 150.

See *Accounts*, Nos. 19, 20, 21.

RECEIPT.

See *Public lands*, (transfer of,) No. 304.

RECLAMATION.

See *Desert lands*, No. 4.

RECORDS—DIVISION B.

Secession ordinance:

1. Review of alleged private entry at Little Rock Land Office, Arkansas, at or about time the State passed the ordinance of secession.

Sec'y. June 21, 1880. Isaac Hicks, 7 C. L. O., 71.

Bounty-land warrants:

2. Commissioner of Pensions has no authority to cancel, in the hands of an innocent assignee; nor jurisdiction to decide as to who is innocent purchaser. Definition of term "innocent purchaser."

Sec'y. July 23, 1881. Andrew Anderson *et al.*, 8 C. L. O., 95.

3. Where two have issued to one person, and both have been located, both must be satisfied, except in case of forgery.

Com'r. (B.). To R. & R., Camden, Ark., 9 C. L. O., 137.

Patents:

4. When patent has been regularly signed and recorded, the right to its possession by grantee is perfect. Mandamus will lie to enforce its delivery. Power of the Land Department over the proceeding in the case ceases with the last act necessary to pass the title. Title by patent is title by record, and delivery of the instrument is not necessary. U. S. *ex rel.* McBride *v.* Schurz.

Sec'y., &c., 102 S. C., 378.

5. Unless void upon its face, must be regarded as the property of the grantee. Proceeding for delivery of canceled patents in Gen'l Land Office.

Sec'y. to Com'r. Feb. 28, 1881, 8 C. L. O., 10.

6. Relinquishment of lands embraced in an erroneous.

Com'r. (B.) To R. & R., Worthington, Minn., Sep. 19, 1882.

Patents—Continued.

7. Executed, but canceled by Com'r. of Pensions; cancellation unauthorized, and instrument must be delivered under the McBride decision.

Sec'y. to Com'r., July 23, 1881. *Andrew Anderson et al.*, 8 U. L. O., 95.

See *Mines, &c.*, No. 201.
Public lands, Nos. 305, 306.

REGISTER.

See *Mines, &c.*, (publication,) No. 195.

REGISTER AND RECEIVER.

See *Accounts*, Nos. 22, 23, 24; (fees and commissions,) Nos. 11, 12.
Practice, (appeal,) Nos. 1, 2; (dismissal of appeal,) No. 3; (failure to appeal,) Nos. 4, 5; (notice of appeal,) Nos. 8, 9; (jurisdiction,) No. 6.
Pre-emption, No. 123; (waiver,) No. 169.
Private land claims, (appeal,) No. 8.
Public lands, Nos. 307, *et seq.*

REHEARING.

See *Practice*, (jurisdiction,) No. 6.
Private land claims, (practice,) Nos. 97, 98, 99; (*stare decisis*), No. 114.

RELINQUISHMENT.

See *Public Lands*, Nos. 314, *et seq.*; (preference right,) No. 292; (timber-culture entryman,) Nos. 375, 376, 377, 378; (timber-culture entries,) Nos. 392, 393, 401.
Railroads, No. 49a; (selection,) No. 60.

RELOCATION.

See *Mines, &c.*, Nos. 204, 205; (abandonment,) No. 3; (expenditure,) No. 86.

REPAYMENT.

See *Accounts*, No. 25, *et seq.*
Mines, &c., No. 292.

REQUIREMENTS.

See *Public lands*, No. 326, *et seq.*; (soldier's dec. statement,) No. 354.

RESERVATION.

See *Construction*, No. 1.
Mexican and Spanish grants, No. 1.
Mines, &c., No. 207, *et seq.*; (mineral lands,) No. 141; (patent,) Nos. 157, 158.
Pre-emption, (pre-emption right,) No. 103.
Private land claims, Nos. 107, 108, 109; (New Mexico donations,) No. 42.
Railroads, Nos. 50, 51.

RESERVED CHEROKEE LANDS.

See *Indian lands*, No. 1.

RESIDENCE.

- See *Pre-emption*, No. 124, *et seq.*; (Osage T. and D. R. lands,) Nos. 93, 94; (settlement,) Nos. 139, 140.
Private land claims, (Oregon donations,) Nos. 46, 77, 78.
Public lands, No. 330, *et seq.*; (circular instructions,) No. 61; (construction,) No. 76; (entry,) No. 157; (homestead entry,) No. 226.
Railroads, No. 52.

RES JUDICATA.

- See *Mines, &c.*, No. 202.

RESTORATION TO MARKET.

- See *Public lands*, Nos. 337, 338.

RESULTING TRUST.

- See *Mines, &c.*, No. 211.
Patent, No. 21.

REVIEW.

- See *Land Department*, No. 7.
Pre-emption, No. 133.
Public lands, Nos. 339, 340.

REVISED STATUTES.

- See *Mines, &c.*, (construction,) No. 73.

RIGHT OF WAY.

- See *Railroads*, No. 53, *et seq.*

RIPARIAN RIGHTS.

1. Extend laterally into the stream. Rocks and shoals along the margin of navigable rivers above tide-water belong to the riparian owner.
Moore v. Willamette T. and L. Co., 7 Oregon R., 355.
2. When a navigable stream is meandered in making the public surveys and the U. S. has granted to the meander line, the grantee takes to the river. The stream and not the meander line is the true boundary of the riparian owner.
Minto v. Delaney, id., 337.
3. Lands patented by the U. S. on a tide-water stream extend to the meandered line of the stream, which is the line of ordinary high water.
Parker v. Taylor, id., 435.

See *Accretions*.

RULES.

- See *Land Department*, No. 4.
Practice, Nos. 10, 11.
Pre-emption, (waiver,) No. 169.
Private land claims, (appeal,) No. 7.

SALES.

- See *Accounts*, (Indian reservation,) No. 16.
Mines, &c., (mineral springs,) No. 142; (mining claim,) No. 149.
Pre-emption, (timber,) No. 151.
Public lands, No. 344.
Swamp lands, No. 5.

SALINE LANDS.

See *Public lands*, No. 345.

SCHOOL LANDS.

1. Grant of, in California was not intended to cover mineral lands. Such lands were, by the general policy of the Gov't., excluded from all grants.
Mining Co. v. Cons'd. M'g. Co., 102 S. C., 167.
2. In default of proof that the lot claimed as, was ever selected as such under the act of Congress, *held* that there should be judgment of non-suit, without passing upon the issues of title, &c., raised by the pleadings.
School Board v. Rollins, 33 La. An. R., 424.
3. Sections 16 and 36, by act of Mar. 3, 1853, though mineral lands, were granted to the State of California.
Wedekind v. Craig, 56 Cal. R., 642.
4. Sections 16 and 36, by act of Mar. 3, 1853, are reserved from grant to State when settlement, by the erection of a dwelling or cultivation, has been made on the land prior to survey; and the State must select other lands in lieu.
Id., and *Mining Co. v. Cons'd M'g Co.*, 102 S. C., 167.
5. Settlement on, within section 7 of act of Mar. 3, 1853, is not required to be the same as in cases of pre-emption.
Mining Co. v. Cons'd M'g Co., 102 S. C., 167.
6. The resolution of Congress, relating to Osage ceded lands, operated as a grant of the 16th and 36th sections to Kansas for school purposes.
Baker v. Newland, 25 Kan. R., 25.
7. Title to sections 16 and 36 does not vest in State before the approval of the township survey by U. S. surveyor gen'l. Application to purchase prior thereto is void.
Medley v. Robertson, 55 Cal. R., 396.
8. When forfeited for non-payment of purchase money to State, and sold for taxes, the purchaser paying balance and receiving patent, the title cannot be questioned.
Baker v. Newland, 25 Kan. R., 25.

See *Mines, &c.*, (coal lands,) No. 63.

Pre-emption, Nos. 134, 135; (occupation,) No. 85; (settlement,) No. 143.
Timber depredations, No. 25.

SCRIP.

See *Choctaw scrip*.

Military bounty-land warrants, No. 1, *et seq.*

Patent, No. 14.

Pre-emption, (Valentine scrip,) No. 164.

Private land claims, (indemnity scrip,) Nos. 31, 32, 33; (patent,) No. 91; (Supreme Court scrip,) No. 115, *et seq.*; (surveyor gen'l's scrip,) Nos. 122, 123.

Public lands, (attorney,) No. 47; (Indian lands,) No. 233; (Indian scrip, Chippewa half-breed, Choctaw, Kaw,) Nos. 237, 238, 239, 240; (military bounty-land warrants,) No. 253.

Sioux half-breed scrip, Nos. 1, 2.

SEAL OF GEN'L LAND OFFICE.

See *Mines, &c.*, (patent,) No. 168.

SECRETARY OF THE INTERIOR.

See *Land Department*, No. 1, *et seq.*
Private land claims, (practice,) No. 98.
Railroads, (withdrawal,) No. 78.

SELECTION.

See *Pre-emption*, No. 136.
Private land claims, No. 110, *et seq.*
Railroads, Nos. 58, 59, 60; (Kansas,) No. 21a.
Swamp lands, Nos. 6, 7, 8.

SETTLEMENT.

See *Pre-emption*, No. 137, *et seq.*; (alien,) No. 8; (preference right,) No. 107; (residence,) Nos. 124, 126.
Private land claims, (Oregon donations,) No. 66.
Public lands, Nos. 346, 347, 348.
Railroads, No. 61; (settler's right,) No. 68; (withdrawal,) No. 79.
School lands, Nos. 4, 5.

SETTLER.

See *Construction*, No. 4.
Indian lands, (ceded neutral lands,) No. 2.
Pre-emption, (dec. statement,) No. 37; (Osage T. and D. R. lands,) No. 90; (settlement,) No. 144; (town lots,) No. 156.
Public lands, No. 349.
Railroads, No. 62, *et seq.*; (selection,) No. 58.
Town sites, No. 3.

SETTLERS RIGHT.

See *Railroads*, No. 68.

SINGLE MAN.

See *Private land claims*, (Oregon donations,) Nos. 55, 57.

SINGLE WOMAN.

See *Pre-emption*, (waiver,) Nos. 166, 167.
Private land claims (Oregon donations,) No. 47.
Public lands, (timber-culture entryman,) No. 380; (woman,) No. 424.

Sioux half-breed scrip:

1. Location of, is not allowable upon occupied lands, and must be made by party to whom issued, or under power of attorney from him.
U. S. v. Chapman, 5 Saw., C. C., 528.
2. Patent under scrip location cannot properly issue pending a contest between a claimant under State selection and the scrip claimant.

Id.

SOLDIER.

See *Railroads*, Nos. 69, 70.

SOLDIER'S ADDITIONAL HOMESTEADS.

See *Public lands*, (instructions,) No. 243.

SOLDIERS AND SAILORS.

See *Public lands*, (sailors.)

SOUTHERN STATES.

See *Pre-emption*, Nos. 147, 148; (private entry,) No. 110.

STARE DECISIS.

See *Private land claims*, No. 114.

STATE LAWS.

See *Railroads*, (right of way,) Nos. 56, 57.

STATE SELECTIONS.

See *Accounts*, No. 44.

Pre-emption, No. 149.

Private land claims, (interference,) No. 34.

STATUTES.

See *Construction*, No. 5.

Pre-emption, (construction,) No. 15, *et seq.*

Private land claims, (construction,) Nos. 16, 17, 23, 24.

Public lands, (construction,) No. 72, *et seq.*

SUCCESSION PROCEEDINGS.

See *Private land claims*, (surveyor general's scrip,) No. 122.

SUIT.

See *Mines, &c.*, (adverse claim,) Nos. 7, 8, 14; (mineral entry,) No. 137.

Public lands, No. 357.

Railroads, No. 71.

SUPREME COURT SCRIP.

See *Private land claims*, No. 115, *et seq.*; (patent,) No. 91.

SURFACE GROUND.

See *Mines, &c.*, Nos. 214, 215.

SURFACE LINE.

See *Mines, &c.*, No. 216.

SURVEYOR GENERAL.

See *Mines, &c.*, No. 226, *et seq.*; (character of land,) No. 53; (lode or ledge,) No. 118.

SURVEYOR GENERAL'S SCRIP.

See *Private land claims*, Nos. 122, 123.

SURVEYS—DIVISION E.

The right to make deposit of cost of, by applicant for, under R. S. 2401, 2402, and 2403, is limited to *settlers*, which *corporations* are not.

Com'r. (E.) Nov. 8, 1881. A. & P. R. R. Co.

Sec'y. July 8, 1882.

See *Construction*, No. 5.

Land Dep't., (Gen'l Land Office,) Nos. 15, 16.

Mines, &c., No. 217, *et seq.*; (plats and field notes,) No. 150.

Pre-emption, (dec. statement,) No. 39.

Private land claims, No. 124, *et seq.*; (jurisdiction,) Nos. 39, 49.

Public lands, No. 356.

SWAMP LANDS—DIVISION K.

1. Indemnity for. The State of Illinois not entitled to, under the swamp-land grants, for lands sold by the United States prior to the confirmatory act of Mar. 3, 1857, and situated within the granted limits of the Ill. Cent. R. R. The question being *res judicata* by the decision of the Department of Nov. 20, 1855.

Com'r. (K.) Mar. 19, 1880. State of Illinois.

Att'y Gen'l. Feb. 21, 1881.

Sec'y. Mar. 2, 1881, 8 C. L. O., 59.

2. Indemnity for, claimed by State of Illinois, under act of Mar. 2, 1855; selection of 12,346.51 acres having been made and certificate issued by the General Land Office therefor, Aug. 26, 1863, containing the statement that the State would be entitled to an equal quantity of public lands within the State, "if such lands could be found there liable to be taken under said act;" application denied; there being no lands in the State that can be located in satisfaction, and as being *res judicata* by former decisions.

Com'r. (K.) Sept. 6, 1880. State of Illinois.

Sec'y. Oct. 19, 1881, 8 C. L. O., 141.

3. Lands within claimed exterior limits of private land claim, at date of swamp-land act, Mar. 2, 1849, were reserved from its operation, and did not pass to the State.

Com'r. (K.) Nov. 24, 1879. Houmas grant, Louisiana.

4. Reversed by Sec'y. May 3, 1881, holding that by the decision of the Dep't of May 8, 1878, the Houmas grant was limited to a depth of 42 arpents, and did not include the land in question, which should be listed to the State.

8 C. L. O., 21.

5. Sales of, by United States, prior to confirmation to State by approval of Sec'y of Interior, hold as against claim of State under swamp-land acts.

Com'r. April 14, 1882. St. Arant *v.* State of Oregon, 9 C. L. O., 83.

6. Selection of, by R. R. Co. in Michigan, denied; the plat and field notes of survey showing the land to be swamp, and therefore inuring to the State under act of Sept. 28, 1850, and that being the method agreed upon by the Government and the State by which to determine the character of the land.

Com'r. (K.) Dec. 16, 1880. F. & P. M. R. R. Co. *v.* State of Mich.

Sec'y. Oct. 1, 1881.

7. Selection of; by State of Michigan, and reported as swamp, but not approved. Cash entry upon same by L., but canceled for conflict with State claim and purchase money refunded; under act of Mar. 2, 1855, purchase money may be repaid by L., and land patented to him.

Com'r. (K.) Oct. 3, 1882. Lawrence *v.* State of Mich., 9 C. L. O., 39.

8. Selection of; proof of incompetent, where it did not appear that the list had been approved by the surveyor gen'l or the U. S. Land Dep't.

County of Buena Vista *v.* I. F. & S. C. R. R. Co., 55 Iowa R., 157.

9. The swamp and overflowed lands donated by the United States to Arkansas, are, unless sooner reclaimed, exempt from taxation for ten years after they have been sold by the State.

R. R. Co. *v.* Loftin, 105 S. C., 258.

TAXATION.

See *Railroads*, No. 72.
Swamp lands, No. 9.

TECHNICALITY.

See *Pre-emption*, No. 150.

TELEGRAPH COMPANIES.

See *Timber depredations*, No. 26.

THREATS.

See *Public lands*, No. 359.

TIDE LANDS.

1. In California,—unless subject to reservation by Mexico for military purposes, or otherwise disposed of by her, were taken and held by the United States in trust for the future State.
Le Roy v. Dunkley, 54 Cal. R., 452.

2. Lands subject to tidal overflow are not included in private grants under Spanish and Mexican authority, and are not to be classed as public lands.

Com'r. (E.) Nov. 19, 1881. *Dennis Cook*.

Sec'y. Oct. 5, 1882.

See *Mines, &c.*, (placer claim,) No. 178.

TIDE WATER.

See *Private land claims*, (boundary,) No. 12.
Riparian rights, Nos. 1, 3.

TIMBER.

See *Mines, &c.*, No. 234.

Pre-emption, No. 151.

Public lands, (homestead entries,) No. 216; (timber culture,) No. 372.
(*Timber trees*), No. 413.

TIMBER AGENTS.

See *Timber depredations*, Nos. 27, 28.

TIMBER CULTURE.

See *Pre-emption*, (preference right,) Nos. 107, 108.

Public lands, No. 360, *et seq.*; (homestead entry,) No. 216; (mulching,) No. 256; (preference right,) Nos. 290, 292, 293; (relinquishment,) Nos. 315, 316, 317, 322, 324, 325; (timber-culture entryman,) No. 374, *et seq.*

TIMBER-CULTURE ENTRIES.

See *Accounts*, (fees and commissions,) No. 15.
Public lands, No. 388, *et seq.*

TIMBER-CULTURE ENTRYMAN.

See *Public lands*, No. 374, *et seq.*

TIMBER-CULTURE LAWS.

See *Public lands*, Nos. 409, 410, 411; (pre-emption and timber-culture laws,) No. 287 (requirements,) Nos. 326, 327, 328.

TIMBER DEPREDACTIONS—DIVISION P.

Accretions:

1. Lands formed by,—adjoining public lands, belong to the Gov't, from which timber cannot be cut without violation of law.
 Com'r. (P.) Oct. 4, 1881. Wm. Reminger.

Construction:

2. Under acts of June 3, 1878, (chaps. 150 and 151,) timber cut in any of the States or Territories named in either act, not to be exported. Agriculturists and miners may, committing no waste, cut timber from public lands for clearing and preparing them for tillage, and for the ordinary working of mines. One who cuts for the *farmer* or *miner* for above purposes is protected, the same as they would be.

See'y. June 3, 1878.

Contractors:

3. For timber unlawfully taken from public land, knowing or having reason to believe it was so taken; or who cut or encouraged or incited others to do the unlawful cutting, are liable to civil and criminal prosecution.

Com'r. (P.) Feb. 15, 1882. M. Krebs.

Damages:

4. Homestead claimant cannot collect, for timber cut on unpatented claim, or hold for damages the timber cut; the Gov't only has that right.

Com'r. (P.) Mar. 6, 1882. M. T. records.

5. Innocent purchaser of timber illegally cut may be sued by U. S. for full *enhanced* value; or timber may be replevied.

Bly v. U. S., 4 Dillon, C. C., 465.

Com'r. (P.) Dec. 1, 1880, Oscar B. Barber; Feb. 24, 1881, Wm. F. Prosser; U. S. v. Smith, April term, U. S. dist. court, Ark.

6. In action for timber cut and carried away, the measure of damages is: 1. Where defendant is a willful trespasser the full value at time and place of demand or of suit brought, with no deduction for labor and expense of defendant. 2. Where defendant is an unintentional trespasser, or his innocent vendee, the value at time of conversion, less the enhanced value by their labor and expense. 3. When defendant is a purchaser without notice of wrong from a willful trespasser, the value at time of purchase.

E. E. B. W. Co. v. U. S. (in error.) U. S. Sup. Court, Oct. term, 1882.

Fires:

7. Destruction of timber by; directions for prevention, &c.
Com'r. (P.) Circular, Sept. 9, 1882, 9 C. L. O., 136.

Homestead and pre-emption:

8. Homesteaders residing upon their claims may cut timber on the portion to be cultivated; surplus thereof, not required for actual improvements, and such only, may be sold by claimant.
Com'r. (P.) Jan. 27, 1882, Cha's Conner; Feb. 3, 1882, A. M. Caated; Feb. 28, 1882, J. H. Prince, 8 C. L. O., 192.
9. Homestead claimant, in possession of the land covered by his entry, is entitled to protection from the courts against timber trespassers thereon.
Act'g. Com'r. (P.) Jan. 7, 1881. W. T. Nelson.
10. Homestead and pre-emption claimants are liable to prosecution, civil and criminal, for cutting and disposing of timber from their claims not entered in good faith, or cut under false pretenses of improving, &c.
Com'r. (P.) Dec. 1, 1880. O. B. Baker. Bly v. U. S., 4 Dillon, C. C., 465.
11. Homestead is an estate with conditions precedent. The entry is in fact but an application only, giving the applicant no property in the land until acquired by compliance with the requirements of law.
Com'r. (P.) Feb. 24, 1882. U. S. v. Wiley.

Mesquite:

12. Cannot be cut from public lands, mineral or non mineral, to be exported from State or Territory where cut, or for sale to any railroad for fuel or repairs; may be cut from *mineral* lands for use of actual settlers, residents, or miners, only.
Com'r. (P.) Circular, Oct. 12, 1882, 2 Rep'r, 147.

Mexican and Spanish grants:

13. Lands claimed under are U. S. lands until confirmed; pending which the grant claimants have no right to cut timber thereon for sale; nor have railroad companies a right to cut or dispose of timber on such grants.
Com'r. (P.) July 25, 1881, Conway, Risque, and Childers; to Sec'y. Feb. 1, 1882; July 15, 1882, 9 C. L. O., 121; 2 Rep'r, 131.
Sec'y. June 3, 1882, 9 C. L. O., 80.

Military post:

14. Contractor for supplying, may cut wood on public land for the purpose—not committing waste—provided the Gov't only pays for the cutting and hauling.
Sec'y. Sept. 26, 1882, 9 C. L. O., 136.

Mining claims:

15. Locators of, complying with the law governing their possession, are invested with exclusive right of possession and enjoyment of all the surface embraced in their location; have a transferable property interest therein, which may be asserted in the courts. The Gov't cannot be made a party in a suit for trespass on such location.

Mining claims—Continued.

16. Timber necessary for mining purposes thereon, only can be cut on mining ground.

U. S. v. Nelson, 5 Saw., C. C., 68.

17. Timber may be cut from mineral lands for domestic and mining purposes only—not for export. None less than 8 inches diameter can be cut. Waste is prohibited and destruction by fires.

Sec'y. May 25, 1882, 9 C. L. O., 63, 100, 2 Rep'r, 115, 123.

Purchasers:

18. Of timber unlawfully cut, knowing the fact, or of lumber made from the same, are liable to prosecution, both civil and criminal.

Com'r. (P.) Feb. 24, 1881. W. F. Prosser.

Railroads:

19. Authorized agents of only, (and the men employed by them,) can take timber from the public lands for construction purposes.

Com'r. (P.) Oct. 27, 1881, J. W. Jones; Mar. 31, 1882, Newkirk, Riley & Graves, 9 C. L. O., 38. Circulars, July 15, 1881, 1 Rep'r 50; June 30, 1882, 2 *id.*, 123, 9 C. L. O., 100.

20. Cannot take timber from public land along the line of one road to construct another; but only from land along the road to be constructed.

Com'r. (P.) Aug. 3, 1881, A. T. & S. F. R. R. Co.; Nov. 2, 1881, N. M. & S. P. R. R. Co.; Nov. 25, 1881, A. T. & S. F. R. R. Co.; Jan. 16, 1882, N. M. & S. P. R. R. Co.; to Sec'y. July 15, 1882, 9 C. L. O., 121, 2 Rep'r 131. Circulars, July 15, 1881, 1 Rep'r, 50; June 30, 1882, 2 Rep'r 123, 9 C. L. O., 100; July 22, 1882, 9 C. L. O., 100.

21. Maps of location must be filed and approved before timber can be taken from adjacent public lands for construction; and before the application required by circular of July 15, 1881, can be granted.

Com'r. (P.) Oct. 25, 1881, R. & R., Boise City, Idaho; May 4, 1882, O. S. L. R'y. Co.; same date, U. N. R'y. Co.

22. Their right to take material from public lands for construction purposes, ceases on completion of track between terminal points.

Com'r. (P.) Feb. 20, 1882. N. M. & S. P. R. R. Co., 1 Rep'r, 91.

23. Unearned lands, within limits of grants to railroads, are subject to control of Land Dep't., and timber thereon will be protected from trespass.

Com'r. (P.) Aug. 27 and Nov. 16, 1881. N. P. R. R. Co.; U. S. v. Childers, U. S. dist. court, Oregon, June term, 1882.

24. Until definite location is made and approved, and land opposite each section of road earned, it should be protected by the Gov't from timber trespass.

Com'r. (P.) Oct. 14, 1881, and Nov. 16, 1881. W. F. Prosser.

School lands :

25. Timber cannot be taken from, by railroads or settlers. Such lands are reserved from, not included in public lands from which timber may be taken, or which are open to settlement.

Com'r. (P.) Nov. 16, 1881. W. F. Prosser.

Telegraph companies :

26. Complying with requirements of law, (R. S. 5263-69,) can take timber from public lands for construction of line. Individuals or associations, not so organized, so cutting, are liable to prosecution, civil and criminal.

Com'r. (P.) July 29, 1882. T. Harlan.

Timber agents :

27. Appointment of, by Land Dep't recognized by Congress by appropriation for their payment.

Well v. Nickles, 104 S. C., 444.

28. Compromise by agent, by which trespasser pays costs and gives bond to pay for timber taken when value shall be ascertained, is binding on U. S.

Id.

See *Mines, &c.*, (mining claim,) No. 147.

TIMBER-CULTURE LAW.

See *Public lands*, No. 287.

TIMBER LANDS.

See *Public lands*, No. 412.

TITLE.

See *Mines, &c.*, No. 235.

Patents, No. 18.

Private land claims, (act of June 22, 1860,) Nos. 2, 3, 4.

School lands, Nos. 7, 8.

TOWN.

See *Pre-emption*, (incorporated limits,) No. 74; (residence,) No. 129.

TOWN LOTS.

See *Pre-emption*, No. 152, *et seq.*

TOWN SITES.

1. Abandoned,—land may be taken up under donation act.
Bear v. Luse, 6 Saw., C. C., 148.
2. Entry of, by probate judge is in trust for occupants. Party in actual possession of a lot cannot be deprived of his right by award of the commissioners and deed by judge to another.
Rathbone v. Sterling, 25 Kan. R., 444.

3. Settler on, has a mortgageable interest; and having afterwards procured the title, mortgage becomes valid.
Reasoner v. Markley, id., 635.

See *Mines, &c.*, Nos. 236, 237; (mill site,) No. 129; (patent,) Nos. 157, 158, 159.

Pre-emption, Nos. 158, 159, 160.

Private land claims, (Oregon donations,) No. 83.

TRANSMUTATION.

See *Pre-emption*, Nos. 161, 162; (declaratory statement,) No. 32.

Public lands, (entry,) No. 157.

TREATY OF GUADALUPE HIDALGO.

See *Mexican and Spanish grants*, No. 7.

TRESPASS.

See *Mines, &c.*, (possession,) No. 186.

Pre-emption, No. 163.

TRESPASSER.

See *Mines, &c.*, (locator,) No. 108.

Railroads, No. 73.

TUNNEL

See *Mines, &c.*, No. 238, *et seq.*; (lode or ledge,) Nos. 120, 121; (Sutro,) No. 230, *et seq.*

U. S. DISTRICT COURT.

See *Private land claims*, (jurisdiction,) Nos. 39, 40.

UNSURVEYED LANDS.

See *Pre-emption*, (possession,) No. 96; (State selections,) No. 149.

Public lands, No. 414.

UTAH.

See *Mines, &c.*, (mineral entry,) No. 135.

Pre-emption, (settlement,) No. 143.

VALENTINE SCRIP.

See *Pre-emption*, No. 164.

VARIANCE.

See *Public lands*, No. 416.

VIOLENCE.

See *Public lands*, (forcible intrusion,) No. 183; (threats,) No. 359.

WAIVER.

See *Mines, &c.*, No. 241.

Pre-emption, No. 165, *et seq.*

Private land claims, (acceptance,) No. 1.

WATER RIGHTS.

1. For mining, &c., are rights belonging to real property, and cannot be lost by non-user alone, short of the period of limitation of actions for the recovery of real property.
Dodge v. Marden, 7 Oregon R., 456.
2. May become extinguished by abandonment,—by an act showing an intention to surrender or forsake the right.

Id.

WIDOW.

See *Private land claims*, (Oregon donations,) Nos. 53, 62, 79, 81, 82.
Public lands, No. 417, *et seq.*; (homestead entries,) No. 219; (timber-culture entryman,) No. 383.

WIFE.

See *Pre-emption*, No. 171, *et seq.*
Railroads, No. 74.

WILL.

See *Public lands*, No. 423.

WITHDRAWAL.

See *Public lands*, (settlement,) No. 346.
Railroads, No. 75, *et seq.*

WORK AND LABOR.

See *Mines*, *f.c.*, (abandonment,) No. 5; (mining claim,) No. 148.
Public lands, (timber-culture entryman,) No. 384.



